

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

May 25, 2007

Board of Land and Natural Resources  
Honolulu, Hawaii

REQUEST FOR FINAL APPROVAL TO AMEND HAWAII ADMINISTRATIVE RULES  
CHAPTER 13-75, RULES REGULATING THE POSSESSION AND USE OF CERTAIN  
FISHING GEAR TO INCLUDE RULE AMENDMENTS FOR THE USE OF LAY NETS ON  
THE ISLAND OF MOLOKAI

Submitted for your consideration and approval is a request to approve amending Hawaii Administrative Rules (HAR), Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear, to specifically regulate the use of lay nets on the Island of Molokai.

At the November 17, 2006 Land Board meeting, the Land Board (Board) approved item F-4 which included recommendations (with Attorney General concurrence), that the rules specially pertaining to the use of lay nets on the Island of Molokai and the establishment of a process by which the Board could expedite modifications to areas closed to lay net fishing, be sent back out for public hearing (EXHIBIT "A").

The department, at the Chair's discretion and with concurrence from the Governor, expedited the rulemaking process regarding the proposed Island of Molokai provision. The department received preliminary approval of the amended proposed rule regarding the Island of Molokai, from the Attorney General's office after the hearings. Subsequently, the department, in accordance with the Governor's executive directive on rule making will submit the draft rule to the Attorney General for final approval of the amended rules upon receiving the Board's approval.

Five statewide public hearings were held on January 16, and 17, 2007, inclusive of the Island of Molokai. A total of 111 people attended these hearings and forty-four (44) people testified. Additionally, forty-one people provided written testimony. The oral and written testimony generally supported the proposed rules for the island of Molokai. Most of the oral and written testimony came from Molokai residents (who supported the Molokai net rules), but testifiers from other islands also supported the proposed rules for Molokai. The Office of Hawaiian Affairs, Association of Hawaiian Civic Clubs, and other native Hawaiian groups supported the proposed rules for Molokai. The minutes of those meetings are attached (EXHIBIT "C").

Public testimony on the proposed changes to 13-75-12.2, which would have established an expedited process to modify areas closed to lay net fishing were mixed and require further review. Thus proposed changes to 13-75-12.2 are not included in this submittal.

The proposed changes to 13-75.12.3 "State waters around Molokai, special rules" were kept intact except for the numbering of the rule section which at the time of the public hearings was 13-75-12.3. Because of previous changes to Chapter 13-75, the Molokai special rules section is now accurately re-numbered as 13-75-12.5 (EXHIBIT "B"). Reference to the prior section regarding "Lay nets," (now numbered as section 13-75-12.4, but referred to at the time of public hearings as section 13-75-12.2) is also conformed to accurately reflect the companion general provision.

These rules have passed preliminary review by the Attorney General's office and with approval today will go back to the Attorney General for final approval and then to the Governor for signature.

RECOMMENDATION:

1. That the Board grant final approval for the proposed amendments to HAR, Chapter 13-75, "Rules Regulating the Possession and Use of Certain Fishing Gear," to specifically amend and regulate the use of lay nets on the Island of Molokai;
2. That the amended rule as approved be re-numbered as section 13-75-12.5, HAR (see EXHIBIT "B").

Respectfully Submitted,



DAN A. POLHEMUS  
Administrator

APPROVED FOR SUBMITTAL:



ALLAN A. SMITH  
Interim Chairperson

Attachments

Amendments to Chapter 13-75,  
Hawaii Administrative Rules

1. Section 13-75-12.2, Hawaii Administrative Rules, is amended by adding a subsection (g) to read as follows:

"§13-75-12.2 Lay nets. (a) It is unlawful for any person, in, on, or about State waters to:

- (1) Possess or use a lay net that has not been registered with the department;
- (2) Possess or use a lay net which is, or lay nets which when set end to end are:
  - (A) Longer than 125 feet in length and more than seven feet in stretched height, except as provided in section 13-60.3-5; and
  - (B) Of less than two and three-fourths inches stretched mesh, except as provided in subsection 13-52-2(2)(A);
- (3) Possess or use a multi-panel lay net;
- (4) Possess or use a lay net that does not have at least four identification tags as specified or provided by the department. One identification tag must be attached at each end of both the net float line and the net lead line for a total of four attachment points on each lay net.
- (5) Fish with more than one lay net at a time.

(b) It is unlawful for any person using the lay net fishing method to:

- (1) Use a lay net that is not marked by surface buoys as specified or provided by the department. The buoys shall display the lay net registration number, be marked with reflective tape, and visible above the surface of the water. The buoys shall be attached to each end of the float line for a total of two buoys for each lay net;
- (2) Use a lay net within 250 feet of another lay

net, except as provided in section 13-60.3-5;

- (3) Use a lay net in water greater than 25 feet in depth; provided that a person with a commercial marine license may use a lay net in water depths up to 100 feet, except as provided in section 13-60.3-5;
  - (4) Use a lay net for more than four hours during any one set; provided that after one set, the same lay net may not be used again within twenty-four hours after the ending of the set; and provided further that no person shall set any other lay net within that twenty-four hour period after the ending of the set;
  - (5) Leave a lay net unattended for more than one-half hour;
  - (6) Retrieve a lay net in such a manner as to cause any stony coral to break either from its attachment to the bottom or in smaller pieces. Any stony coral brought to the surface in the net shall be considered a violation of this section;
  - (7) Fail to complete inspection of an entire lay net within two hours after the beginning of the set. The person lay net fishing shall inspect the lay net and release any threatened, endangered, prohibited, or unwanted species;
  - (8) Discard, abandon, or leave any lay net, or portion thereof, in the water for longer than four hours;
  - (9) Use a lay net in freshwater streams or stream mouths;
  - (10) Use a lay net during the period from two hours after sunset to two hours before sunrise, except as provided in section 13-60.3-5.
- (c) It is unlawful for any person to falsely identify, with identification tags, any lay net that

is not registered with the department as required in subsection (a).

(d) Should any registered net be lost, destroyed, sold, traded, stolen, given away, or otherwise no longer the property of, or no longer in the possession of the registered owner, then the registered owner shall be responsible for the lay net until a report is filed and confirmed by the department.

(e) Any lay net, in, on , or about the water that is not registered or that does not have proper identification tags or surface buoys as required in subsections (a) and (b), or that does not comply with any other provision of this section, shall be considered contraband and subject to immediate seizure by the department, except as provided for in section 13-60.3-5.

(f) It is unlawful for any person to use a lay net in the following areas as provided in the table describing the boundary coordinates or locations for the prohibited fishing areas, located at the end of this chapter, entitled, "Table of Descriptions of Lay Net Fishing Prohibited Areas" dated April 19, 2006, and in the maps located at the end of this chapter, entitled, "Map of Lay Net Fishing Prohibited Area: Maui" dated April 19, 2006, and "Map of Lay Net Fishing Prohibited Areas: Oahu" dated April 19, 2006, and "Map of Lay Net Fishing Prohibited Area: Kane`ohe Bay, O`ahu" dated April 19, 2006:

- (1) Island of Maui;
- (2) Kawaihoa Point to Keahi Point, Oahu;
- (3) Mokapu Point to Wailea Point, Oahu;
- (4) Kaneohe Bay, Oahu

(g) Because of the critical need for protection of coral reef and protected resources, the department may need to respond quickly to establish or modify lay net fishing prohibited areas. The lay net fishing prohibited areas shall be established or amended by formal board action at a publicly noticed meeting. The lay net fishing prohibited areas are attached at

the end of this chapter in a table entitled, "Table of Descriptions of Lay Net Fishing Prohibited Areas" dated April 19, 2006, and in maps entitled, "Map of Lay Net Fishing Prohibited Area" dated April 19, 2006, or as amended by subsequent board action and a copy of the amended table and maps shall be filed with the Office of the Lieutenant Governor. Any such amendment shall also include the most current date in this subsection.

[g](h) Any person violating any subsection of this provision shall be subject to penalty as provided under chapter 187A, HRS. Each violation may constitute a separate offense." [Eff and comp\_\_\_\_\_ am\_\_\_\_\_] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

2. Chapter 13-75, Hawaii Administrative Rules, is amended by adding a section 12.3 to read as follows:

"§13-75-12.3 State waters around Molokai, special rules. (a) Notwithstanding the provisions of section 13-75-12.2, it is unlawful for any person on or about the State waters of the island of Molokai to use a lay net or lay nets:

- (1) that exceed 750 feet in length and more than seven feet in stretched height;
- (2) that have a stretched mesh of less than two and three-fourths inches.

(b) Notwithstanding the provisions of section 13-75-12.2, any person who uses a lay net or lay nets on or about the State waters of the island of Molokai shall:

- (1) register and obtain identification tags from the department for those lay nets;
- (2) when set, mark lay nets with at least two surface buoys at each end of its total length, and those surface buoys shall display the department registration number, be marked with reflective tape and be large enough to be visible to the naked eye from a distance of 1,320 feet;
- (3) set the lay nets not to exceed twelve hours, and that once finished, that nets cannot be used again for at least twenty-four hours;
- (4) leave a distance of at least 1,320 feet from any other lay nets that are already set;

(5) complete at least two inspections of the entire length of lay net set, and shall release any unwanted, prohibited, threatened or endangered species.

(c) Any person violating any subsection of this provision shall be subject to penalty as provided under chapter 187A, HRS. Each violation may constitute a separate offense." [Eff

](Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

3. Material, except source notes, to be repealed is bracketed. New material is underscored.

4. Additions to update source notes to reflect these amendments are not underscored.

5. The amendments to Chapter 13-75, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the office of the Lieutenant Governor.

\_\_\_\_\_  
PETER T. YOUNG, Chairperson  
Board of Land and Natural  
Resources

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

Department of Land and Natural Resources  
Amendments to Chapter 13-75,  
Hawaii Administrative Rules  
(Date of Adoption)

1. Chapter 13-75, Hawaii Administrative Rules, is amended by adding a section 12.5 to read as follows:

"§13-75-12.5 State waters around Molokai, special rules. (a) Notwithstanding the provisions of section 13-75-12.4, it is unlawful for any person on or about the State waters of the island of Molokai to use a lay net or lay nets:

- (1) that exceed 750 feet in length and more than seven feet in stretched height;
- (2) that have a stretched mesh of less than two and three-fourths inches.

(b) Notwithstanding the provisions of section 13-75-12.4, any person who uses a lay net or lay nets on or about the State waters of the island of Molokai shall:

- (1) register and obtain identification tags from the department for those lay nets;
- (2) when set, mark lay nets with at least two surface buoys at each end of its total length, and those surface buoys shall display the department registration number, be marked with reflective tape and be large enough to be visible to the naked eye from a distance of 1,320 feet;
- (3) set the lay nets not to exceed twelve hours, and that once finished, that nets cannot be used again for at least twenty-four hours;
- (4) leave a distance of at least 1,320 feet from any other lay nets that are already set;
- (5) complete at least two inspections of the entire length of lay net set, and shall release any unwanted, prohibited, threatened or endangered species.



(c) Any person violating any subsection of this provision shall be subject to penalty as provided under chapter 187A, HRS. Each violation may constitute a separate offense." [Eff  
] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments are not underscored.

4. The amendments to Chapter 13-75, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the office of the Lieutenant Governor.

\_\_\_\_\_  
ALLAN A. SMITH, Interim Chairperson  
Board of Land and Natural  
Resources

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

Public Hearing  
Amending Hawaii Administrative Rules  
Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear

**EXHIBIT C**

Hearing Location: McKinley High School, Honolulu, Oahu  
Hearing Date: January 16, 2007

I. Introduction

A. Opening

1. It is now 6:10 P.M. and this Public Hearing is called to order.
2. This is a formal Public Hearing on the Administrative Rules of the D\_L\_N\_R\_.
3. My name is Dan Polhemus and I am a the administrator of the Division of Aquatic Resources, and I will be conducting this hearing.

B. Purpose

4. The purpose of this hearing is so that the Department can receive public testimony on proposed changes to administrative rules on lay gill nets. It is to afford all interested persons an opportunity to submit data, views, or arguments on these proposed changes. For Chapter 13-75, these proposed rule changes would establish a process by which the Board of Land and Natural Resources can make changes to areas closed to lay net fishing, and to create special rules for lay net fishing in State waters off the island of Molokai.
5. I hope that all of you have signed in. If not, please do so, so that we may have a complete record of all persons attending this hearing.
6. There is also a separate white colored sheet to sign for those wishing to present testimony on the proposed rule changes.
7. When it is time to testify, I will call the names in the order that they are listed on the sign-in sheet.

C. Present staff and others

1. At this time, I would like to introduce members of DAR staff:
2. With me tonight is Jo-Anne Kushima and Alton Miyasaka.
3. Also, with us tonite is ....
4. (Recognize any politicians, other VIPs present)
5. Attendees:  
Ben Wong, Jeremy Claisse, Bob DaMate, Leimana DaMate, Kapua Kaluhi, Brett Schumacher, Dwayne Shimizu, Shannon Crownover, Jim

Anthony, George Lingle, Toni Lee, Charles Kapua, Siosifa Tiueti, Mahealani Cypher, Sterling Kaya, Leialoha Rocky Kaluhiwa, Jerry Kaluhiwa, Mahi Kaluhiwa, Leimomi Khan, Frank Farm Jr., Tony Costa, Deldrene “Didi” Nohealani Herron, Likolani Halualani’Hee

## II. Background

- A. Public hearings were held in July 2006, statewide to receive testimony on the preliminary proposals. These proposed rule changes are the result of public input and discussions held to reach solutions to various problems.
- B. Approval to conduct this public hearing has been obtained by the Board of Land and Natural Resources (11/17/06).
- C. Copies of the administrative rules are available for inspection at the table near the entrance. During this hearing we want to get your testimony on these proposals.

## III. Notice of public hearing

- A. Notices of this public hearing were placed in the December 17, 2006 issues of the Honolulu Star Bulletin, Hilo Tribune, West Hawaii Today, Maui News, the Garden Island, and the Molokai Island Times (Dec. 20). (legal ad should be posted at the hearing location)

## IV. Hearing procedures

- A. This hearing will be conducted as follows:
  - 1. I will explain the proposed changes to the administrative rules.
  - 2. Then I will call on those who have signed up to testify as they are listed on the sign in sheet.
  - 3. Please keep your testimony brief and on the subject in order to allow all those who came tonight, the opportunity to testify.
  - 4. After those who signed up have presented their testimonies, I will ask if anyone else wishes to testify.
  - 5. We are recording this hearing so that we can get a complete transcript of the hearing, so please state your name for the record.
  - 6. Please remember to respect the opinions of all testifiers, that this hearing is not an opportunity for accusations or rebuttals. This won’t be allowed. There will be differing opinions, and we respect that. Everyone has an opportunity to voice their opinions so that they may be considered.
  - 7. If you have a question, please direct it to me, and I will find the most appropriate person to answer.

## V. Rule Explanation

The Department of Land and Natural Resources is proposing to amend Hawaii Administrative Rule Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear.

The proposed changes would:

- Provide for the establishment or modification of lay net fishing prohibited areas through formal action by the Board of L&NR at a publicly noticed meeting.
- Provide for a listing of lay net fishing prohibited areas using a table and maps, or as amended by subsequent BLNR action.

Notwithstanding the provisions of section 13-75-12.2, for the State waters surrounding the island of Molokai:

- Make it unlawful for any person to use lay nets that exceed 750 feet in length and more than 7 feet in stretched height;
- Make it unlawful for any person to use any lay net with a stretched mesh of less than 2 3/4";
- Require any person who uses a lay net to register and obtain identification tags from the Department (for those lay nets);
- Require that when set, that the lay nets be marked with at least two surface buoys at each end; such buoys shall display the department registration number, be marked with reflective tape, and be large enough to be visible with the naked eye from a distance of 1,320 feet;
- Limit the maximum time the net can fish (be soaked) to 12 hours, after which that nets cannot be used again for at least 24 hours;
- Require leaving a minimum distance of 1,320 feet from any lay nets that are already set;
- Require at least 2 inspections of the entire length of lay nets that are set, and to release unwanted, prohibited, threatened or endangered species; and
- Provide for a penalty for violating any provision of this subsection under chapter 187A, HRS.

## VI. Testimonies

A. As I call your name, please come to the microphone, and state your name.

Leimana DaMate (summary of oral testimony):

- Urged Maui and Hawaii to follow the Molokai example; don't cause problem with resources
- Hawaiian cultural practices enabled them to live in a symbiotic relationship with their environment; need to support Hawaiian practices
- Supports Molokai exception

Bob DaMate (summary of oral testimony):

- Supports gill net rules for Molokai

- Every island should decide what's best for them
- Hawaiians had specific practices when dealing with the ocean, land, and stream as taught to them by their kupuna. Having the DLNR set the practices changes the culture.
- DLNR mandate is to protect natural cultural resources; people are the cultural resources so DLNR should protect the people and their culture

Tony Costa (orally presented his written testimony):

Thank you for the opportunity to testify today.

Hawaii Nearshore Fishermen are opposed to the original proposed amendment to chapter 13-75 brought before the Land Board on November 17<sup>th</sup>. Before the November 17th hearing some of these current subsection rule amendments were included, but were taken out temporarily at the hearing date for a technicality and today we are hearing them again. As such, Hawaii Nearshore Fishermen remain opposed to the amendments and would like to again enter in for the record our comments for this new subsection.

The new rule amendment adds subsection (g) and new section 12.3

Subsection (g) gives the department the ability to quickly establish or modify existing lay net closed areas by a "formal board action at a publicly noticed meeting".

Section 12.3 gives the entire island of Molokai an exemption of both the complete ban on gill netting and of the debilitating gill net regulations would apply to the unbanned areas that would apply to the rest of the state.

Hawaii Nearshore Fishermen are opposed to giving the department the carte blanche ability to establish or modify the prohibited closed areas by merely holding a board meeting. We are opposed to this. Hawaii Nearshore Fishermen continues to ask that science or some kind of rational need be demonstrated along with input and participation from the fishing community before rules are slammed into place.

Regarding the Molokai exemption: We applaud the department for recognizing the more realistic gill net regulations demonstrated in the Molokai exemption. In fact, the Molokai exemption is more lenient than the original gill net task force recommendations which WE DO SUPPORT. However, all the purported justification and reasons for banning and restricting gill net use that the rest of the State of Hawaii faces is folly in the light of this Molokai exemption. All the research and justification that is attached to the restrictions in the island wide amendments of gill net rules mean nothing.

There is no scientific rationale and absolutely no fairness or equity. If there is ever a resource need to justify a differing rule or regulation and there may well be, it should be genuinely justified by resource need.

Hawaii Nearshore Fishermen would be in support of the Molokai exemption if similar rules were established island wide. This would make sense; this would not disenfranchise the community. This would not put undue pressure on Molokai. And, this would enable fishermen and families island-wide to be a part of resource management instead of being banned and eliminated from their connection to the resource.

Thank you for allowing me to testify.

I would like to request here in writing a copy of the gill net rule amendments that were approved by the land board and the final version that are at the Attorney Generals office. I have an old copy of the November 17 proposed amendments but since there were

changes (Molokai, 250 ft allowable, etc) I would like to know what exactly was changed and sent on to AG. Thank You.

Frank Farm (written and oral testimonies):

I support some of the proposed amendments regarding lay net fishing for the Hawaiian Islands; however, I am concerned about the unexplained, unequal application that is set forth in the amendments.

It is particularly noteworthy that this amendment allows for use of 750' of lay net for the Island of Molokai. I not only applaud your decision to increase the allowable length of the lay net, but also call to your attention the fact that the Gill Net Task Force (GNTF) had recommendations for 500' of net for recreational fishers, thus believe your extra 250' although generous, is well within reason. I am further heartened that the HAR amendments also call for other same or similar items as recommended by the GNTF, i.e. stretched mesh, registration and identification tags, surface buoys, etc. I am, however, dismayed and concerned because of the disparate and favorable treatment afforded to Molokai to the exclusion of other areas. No explanation or rationale is provided for these differences. As such, these "Molokai provisions" should be extended to the other fishing areas as well.

In addition to the very basic discrepancy on net length, it is to be noted that there are other significant differences between the treatment of Molokai and the other areas within the proposed amendments. Some examples are:

- Molokai is allowed to leave nets for 12 hours versus the 4 hours allotted to the other areas,
- Molokai is only required to inspect twice within the 12 hour period without a delineation of timing versus the requirement that the nets in other areas be inspected within 30 minutes after set (cannot be left unattended, whereas the Molokai provision is silent on attendance, moreover there is no definition of "attendance" within the amendments) and within 2 hours after set,
- No mention for Molokai on net set/retrieval with respect to stony coral versus the requirement for other areas,
- No restrictions on Molokai for use in freshwater streams or stream mouths versus the restrictions in other areas,
- No requirement for identification on the floats and lead lines for Molokai versus the requirement of 4 tags on the lead lines for the other areas,
- No restrictions on Molokai for use from 2 hours after sunset to 2 hours before sunrise versus the restriction for the other areas. (This raises the concern that those drafting these amendments do not have a basic understanding of the migratory patterns of fishes and the importance of being able to set nets during the night time and dawn and dusk hours.

What is the rationale for all these differences? There are threatened, endangered, prohibited, or unwanted species and similar, if not the same type of, coral reef elsewhere in the waters of the State of Hawaii as at Molokai. Where is the management overseeing the legitimacy of these amendments? What directives will enforcement follow should

these amendments be adopted? How will the ambiguous or undefined provisions be interpreted? Who is overseeing the drafting of these amendments and balancing the interest of all instead of certain special interest groups? Answers are needed before these amendments are put into place.

With respect to 13-75-12.2(g), I disagree with the elimination of the 5 year sunset provision. That sunset provision provides important incentives for all parties to give priority attention to the status and improvement of the lay net regulations.

**THE BOTTOM LINE:** I, and probably many others, including most stakeholders (fishermen and consumers), would consider more favorable support of the proposed amendments **IF** the other areas are given similar consideration as Molokai. Indeed, I would strongly recommend that the rest of the Hawaiian Islands be given equal treatment as Molokai – and this is a **strong** recommendation. Without some immediate changes, there will be little, if any, support – only emphatic disagreement with the “Molokai provisions” at this hearing.

---

Additional comment: To Dr Polhemus and Chairman Peter Young, if your concerns are really the concerns of the federal endangered species act and possible interactions, I think if you even grant similar allowances as Molokai, you can justify the position of the State, that you are addressing the problem because anyone can set miles of net whereas everyone would be limited to 750, there would be more registration of the net and more other criteria so that the feds would agree. When you come right down to it, 125 feet, if you're any kind of net fisherman, is utterly ridiculous. It just happens to be the length of the one net - 125 feet. Its not going to catch what the people on all the other islands would want for sustenance, for feeding their families, or whatever. For doing that kind of fishing, 125 feet is one length. It's almost like an automobile, you can't drive it or ride it with one tire. You need four. So you need more nets, you need more lengths. 750 feet is fantastic. We agree. The Gill Net Task Force had something similar. We're glad you're agreeing with us. It only makes us wonder if there's some other special interest here.

Dwayne Shimizu: I'm Dwayne Shimizu and I'm a commercial fisherman from Kaneohe Bay. I lay moemoe nets. I think the length of net is wrong. It's like one of your patrol officers going to work with one bullet in their gun. I think everybody owns a TV. If they look at the Discovery Channel, they can see what kinds of pollution there is in other parts of the world. I wouldn't eat fish from Ala Wai Canal, but to the TV, its pristine waters. Before you make exemptions to the rules, you should take that into consideration.

Antoinette Lee: Aloha, my name is Antoinette Lee. I am the immediate past president of the Association of Hawaiian Civic Clubs. I come to you tonight as a resident of the island of Oahu, from Pearl City. Thank you DLNR for supporting the Molokai exemption on the gill net ban. I feel it is the right thing to do. Every island, every moku, has a specific mana'o for their ocean areas. The State of Hawaii, under chapter 343, HRS, I'd like to ask that you adhere to this rule. Articles IX and XII of the State Constitution, other state laws and courts, and other government agencies, to promote and preserve cultural beliefs and practices on resources of native Hawaiians and other ethnic groups, which are in chapter 343. It also requires an environmental assessment of cultural resources when

determining the significance of a proposed project. It also further says in the cultural impact assessment methodology, an ahupuaa is usually the appropriate geographical unit to begin an assessment of cultural impacts of a proposed action, particularly, if it includes all the types of cultural practices associated with the project area. In some cases, cultural practices are likely to extend beyond the ahupuaa geographical extent of the study area should take into account those cultural practices. I think it's commendable what you're doing for Molokai. I think what you should do is extend it to all of the island of Oahu and all of the islands, and not have bans. Let the community try to help DLNR to do the right thing. Let's not penalize our fishermen and people that use the ocean as a resource. Let's give our people a chance to get things in order, and to assist all of you. Let's not make criminals out of our people. Thank you very much.

Charles Kapua: Good evening. I thank the Department of Land and Natural Resources for supporting the Molokai exemption on the gill net ban. My name is Charles Kapua. I'm the second Vice President of the (?) Hawaiian Civic Club, which is one of the members of the Association of Hawaiian Civic Clubs. During our last convention, we did pass that we were not for a total ban on the island of Oahu. Your department already has one of the resolutions. I think when you exempted Molokai from the gill net ban, it was the right thing to do. Every island has a separate moku. That moku should have the right to say whether or not they want a total ban. That was the Hawaiian way of doing things. They must have the freedom to decide what's best for them. Supporting Molokai proves that DLNR did the right thing. They said they wanted to take care of their own. As a resident of Oahu, I know our kupuna and traditional practitioners understand that the ocean resources in our place better than anyone else. We have specific practices that use upena to weave nets and we will continue to carry out our traditional and cultural practices in the ocean, land, and streams, the way our kupuna have taught us for generations. I ask that the island of Oahu also receive an exemption from the Statewide gill net ban as was done when the State of Hawaii created a special cultural access methods for native Hawaiians in the Northwest Hawaiian Islands. There's a concrete possibility to do the same thing here. DLNR's mandate is to protect and perpetuate the natural and cultural resources of Hawaii. These cultural resources are the Hawaiian people. They cannot be separated from their traditional practices. The decision to ban netting rightly should rest with the moku of each island. I ask you to honor that. Again I ask you to support the Molokai exemption on the gill net ban. Mahalo.

Didi Nohelani Herron: Aloha Ka Kou. I'm coming here not so much to talk to the DLNR. As far as I'm concerned, it's a done deal. Knowing these people and their back door deals, I've dwelt with them long enough. What I'm here to tell the people is giving us alternatives. If you break down the word "alter" "natives." That's all they're offering us. They're altering the native people by giving us alternatives. Last Christmas, my son came to my house and dropped off ten new gill nets. I'm almost sixty years old but I love the water. I could swim before I could walk. I had polio and I'm going in for my fourth pacemaker on the 18<sup>th</sup>. But I'm still out there. And I'm still going to fight for our Hawaiian rights. No matter what! I called by grandson on Maui and when I told him about the ban, he was crying. He said "Grandma, what the hell is going on?" So when I went up for his graduation, I told him, "You have to go to the meeting. You have to show



up. Because if you no show up, these guys not going to listen anyway.” They scream to the federal government, we need money to do studies. Follow the money. That’s what its all about. That’s all I have to say to DLNR, except if you are going to put an injunction on this thing, I’ll put in my \$1,000. I’m going to put my money where my mouth is. Even if I have to sell my ten nets now, to the Philippine black market down Ewa Beach, I’m going to sell the nets and give the money to the lawyers. I’m ready, cause I’m sick of this stuff.

George Lingle: Good evening and Aloha. My name is George Lingle. I’m a resident of Hawaii, also a Native American. I also have a professional background in Bio-Oceanography. I’m a fisherman and a diver and I love my water as well. The traditional methods that have been used by the Hawaiian ancestors in net fishing is one of tremendous resource management. The current method of gill net fishing does not provide that same resource management opportunity. I am against the Molokai amendment and for the current amendment that is presented here in chapter 13-75, Hawaii Administrative Rules. The reason I am for this is because I would like to see a sustained resource for generations to come. I have seen the depletion of our stocks of fish, fully realizing that lay net fishing is not the sole reason for that. But also realizing that it is a very contributing factor that reduces the number of fish in our nearshore Hawaiian waters. I believe that controls over lay net fishing must be put into place. I believe there needs to be proper enforcement to make sure that these controls are able to be carried out. I do not believe that controls of lay net fishing that impede cultural ability to fish. We’re only talking about a method, and the method is not ancestral. The method is derived over years of learning how to effectively catch fish. The reason that the 125-foot net is no longer catching the fish that the current lay net fishermen were catching is a function of over-fishing. The amendments, as proposed, are based on data as to the reduced stocks we currently have. The special interest groups, I propose, that we are looking at here are actually generations to come. The ones that we would like to maintain a resource of fishing are centuries and decades in the future. So in closing, I support the amendment for the controls for all the islands, except Molokai, and feel that tighter controls should be in place for Molokai, so I am against the lessening of the controls for Molokai island. I think the controls need to be based on resource identification and not by the special interest of the individuals on those islands, but one looking towards the future of sustained resource management. Thank you.

Rocky Kaluhiwa (written and oral testimony): Aloha, my name is Leialoha Rocky Kaluhiwa. I am a life-time resident of Heeia Kea and speaking on behalf of Na Iwi Ola O Heeia Kea and we are in support of Molokai island being exempt from the gill net closure. We are also asking the DLNR to put a moratorium on all closures Mauka to Makai until the State legislature can help put together an Aha Moku Council. The State of Hawaii’s legislature should also put a moratorium on all introduced species coming inot our State for both studies as well as economic development until this Aha Moku Council is formed. Its obvious that the DLNR has shown us that they have not the manpower nor the resources to adequately protect our natural resources. And it is written in our State Constitution that these matters are lawfully taken care of.

I sat through twelve days in the Puwalu Conference August, October, and December to discuss lawaia with Native Hawaiian practitioners. We had every Mou represented at these conferences where we ended it with a solution to present our Legislature with a resolution to form an Aha Moku Council. Where our Native Hawaiian practitioners have a seat in the process to make these ocean decisions or any decisions concerning our natural resources.

I also spent three days of debate on this issue at our National Hawaiian Civic Club Convention where the solution was also form an Aha Council to help DLNR with our natural resource laws. No closure in Kaneohe Bay.

Police the people around the bay. I think the DLNR should also ban giving permits for aquarium fishing. Our people never caught the baby fishes. Let them grow. I see them out there constantly at night catching the aquarium fish. Also fix the tilapia/taape. Although it was economic reasons, they multiply fast, they taste good, but it ate up all the natural resources. I catch a couple of fish, they throw up fish, limu lipeepee, aholehole. So fix that problem before you blame it on the fishermen. There are irresponsible fishermen, but we can help police the area for irresponsible fisherman, because we ourselves cannot stand these irresponsible fishermen. Mahalo.

Jerry Kaluhiwa (25:30) (written and oral testimony): Aloha, my name is Jerry Kaluhiwa. I live in Heeia Kea directly across the pier (at Heeia Kea Harbor) also representing of Na Iwi Ola O Heeia Kea. I'm also a practitioner that sat on the Puwalu this last conference. Took us nine days to sort out this net problem, so nothing here is new to us. What you want to do is work with the DLNR. It's been many years that this has been going on and we know they cannot do their job right. They need help by having the people police their moku. We sat at this conference, also with the Hawaiian Civic Clubs, all the things and how we going to do it. We believe that we have problems going on. You already took the turtle away from us. Now, you taking the net. I don't know what more you want from us. Before you guys start doing that, take care of the mess you did with the three "Ts" – Tilapia, Taape, and Toau. It's time to fix things up before you do more mess.

Leimomi Khan: Aloha, Good Evening. Thank you for the opportunity to express our comments this evening. My name is Leimomi Khan. I am the President of the Association of Hawaiian Civic Clubs. Sustainment and growth of ocean resources has long been an issue and concern for the Association of Hawaiian Civic Clubs. Even prior to the public hearings held in July 2006. In the latter part of 2006, the Association of Hawaiian Civic Clubs was part of a Puwalu or gathering that called together almost 200 native Hawaiian practitioners and cultural experts in lawai'a (fishing) and mahiai (agriculture) to discuss pertinent ocean issues including the use of upena or gill nets. Molokai was very well represented by traditional practitioners who use nets in their everyday lives as part of their cultural heritage. I think that what is most important is the message that these 200 practitioners left us with can be summed up in one word – empowerment. We applaud Molokai because what they have done is the best form of government. We talk about government for and by the people. They took kuleana or responsibility to identify their ocean management resource problems and they addressed what they thought was necessary to better manage their ocean resources. I think all of us

can relate to the fact that every island is different. The way the winds and waves move for Oahu is very different from Molokai, Maui, or Hawaii. What might be good for one island might not be good for another island. We believe that every island should be empowered to address its own problems and solutions. If nothing else, there's better buy-in from those affected. We support Molokai.

Kapua Kaluhi: Aloha. I'm from Kahana Valley and I represent Na Kupuna O Waianae, Na Kupuna O Kahana but I especially support our culture, our way of life, our way of doing what we do. And I know you have an obligation to do. Your obligation is to come and work with our people because our fishermen know when to fish, what to fish, who to fish with, when the time comes. That's because they police their own area. They were taught to do this by their kupuna. Today, we have legislation. They don't come out and work with the people in the different areas. Molokai took the initiative and did what they believed needed to be done. We also did the same thing in Kahana when we were condemned illegally in 1962 or '63, some time ago. The fishermen continued to do what they did and no one came and told them they couldn't do that. They would not allow you to do that - to tell them when to do that, how to fish, when to go and look for food. That was what was important. At our meeting in Kaneohe, I stressed that your game warden come out and work with our people, with the fishermen in the area, because one area is not the same as another. But all the people from Heeia Kea to Waimea, they all worked together, shared together. If one group could not be out there because it was closed for that time, then maybe Waimea would fish enough so they could share with those families. If the law was violated by a family member or another fishing group, they were penalized. How were they penalized? They couldn't go fishing. You and your family suffered. They couldn't go without getting help from the community. And that's how it was done. You were made fun of because you violated the law. It still applies. There's no such thing as there is no fish because you didn't go and fish for the same kind all the time. Allow the fishermen to work with the game warden. You need more game wardens. That's what's wrong. Let us take care of that. Our fishermen know what they're doing. The last time I talked to our fishermen, he over 80 and he says there's no such thing as no more fish. Likewise I went to Hauula and Waimea, the fishermen out there and Kaluhiwa said there's no such thing. And these are the people who do the real fishing. And if you look at them, they're all really dark because that's where they are. It's not a matter of not enough but a matter of us working together to help each other. You need more security, more people to come out and work with the people in the different ahupuaa or moku. We need your help because one person cannot do all the talking. This young man knows what he's talking about. He's just frustrated because no one is listening. We need to follow the rules and regulations of our people and the rules still apply. Thank you.

Jim Anthony (declined to use the microphone so parts of his testimony was inaudible): Dr Anthony objected to the holding of the hearing in a facility with bad acoustics (echo) because it was difficult to hear the testimonies.

I have two issues. The first is the issue of exempting Molokai. I have difficulty with exempting Molokai. You leave yourself open to treating the people of Molokai differently from the other people and leave yourself open to civil rights lawsuits. I am not

here to instruct you on the law but to give you some advice. This is an ill-conceived action you are undertaking and the repercussions that may flow from it. The second issue is the division has the trigger to amend these regulations and make them even more draconian than they already are without a public hearing. The Land Board can make the regulations more draconian than they are.

On substantive issues, 1) these are the most draconian regulations that I have seen in my 40 years of public life in this State. Hawaiians and non-Hawaiians alike are American citizens. They are not Fijians, Samoans, Kiribati, Papua New Guinea, nor the Northern Marianas. These rules show a total lack of cultural sensitivity. It is designed to take food off the table of local people. I asked to see the scientific data that these rules are based on. There was none. These rules are an example of bureaucratic terrorism against the people of this State. There is no empirical evidence of a connection between the use of lay nets on one hand and the depletion of the resources on the other. These rules affect the most vulnerable people, the poor people. No matter how many people were opposed to these rules, you would ramrod them through, and make your recommendations to the Board at their next meeting.

Likolani Haualani 'Hee (only written testimony) My name is Likolani Halualani 'Hee. I was born raised and still reside in Heeia Kea. I spend a lot of time in Kaneohe Bay.

I feel we should not have any more closures of any kind until our Native Hawaiian community has a seat in the planning process.

Our state Legislature should make it a law that we have an Aha Moku Council to help decide our natural resources. Mahalo.

Mahi Kaluhiwa (only written testimony): My name is Mahi Kaluhiwa. I was born and raised and still reside in Heeia Kea. I helped my father Jerry Kaluhiwa in the early 80s with the limu restoration project in checking salt salinity and limu growth and monitoring other species in our bay.

We took notice of other introduced fish like Taape and Tilapia (scavenger fishes) destroying our natural resources by feeding off of opae lolo, limu pepe, aholehole, etc. We knew this because these are the things they threw up when we caught it. We knew then that we were headed for doom. I feel our State should look into trying to restore some of our resources while there are still some left. Shutting off gill nets is not the solution.

We need ahupuaa management. I say put a moratorium on all closures until an Aha Moku Council is formed and that we have a say in our Native Hawaiian fishers. Let us be part of the planning process. Mahalo.

B. Are there others who wish to testify?

D. Late testimonies: Persons unable to attend tonight or wishing to present additional comments, may mail written testimony to us by February 1, 2007.

Please mail testimonies to:

Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 330  
Honolulu, HI 96813

VII. Decision-making on the proposals:

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR.
- B. If approved by the Board, legal review will be done by the Attorney General, and then if approved, will be given to the Governor for her final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective.

VIII. Adjournment

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. This public hearing is now adjourned.  
Time: 7:35P.M.
- B. Drive home carefully.

Public Hearing  
Amending Hawaii Administrative Rules  
Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear

Hearing Location: Kulana Oihi, Molokai  
Hearing Date: January 16, 2007

Opening prayer offered by Judy Caparida

I. Introduction

A. Opening

1. It is now 6:05 P.M. and this Public Hearing is called to order.
2. This is a formal Public Hearing on the Administrative Rules of the D\_L\_N\_R\_.
3. My Name is William Puleloa, the Molokai Biologist for the Division of Aquatic Resources, and I will be conducting this hearing.

B. Purpose

1. The purpose of this hearing is so that the Department can receive public testimony on proposed changes to administrative rules on lay gill nets.
2. It is to afford all interested persons an opportunity to submit data, views, or arguments on these proposed changes. For Chapter 13-75, these proposed rule changes would establish a process by which the Board of Land and Natural Resources can make changes to areas closed to lay net fishing, and to create special rules for lay net fishing in State waters off the island of Molokai.
3. I hope that all of you have signed in. If not, please do so, so that we may have a complete record of all persons attending this hearing.
4. There is also a separate sheet to sign for those wishing to present testimony on the proposed rule changes.
5. When it is time to testify, I will call the names in the order that they are listed on the sign-in sheet.

C. Present staff and others

1. At this time, I would like to recognize Halona Kaopuiki (video) and Irene Kaahanui (sign in table), members of the OHA staff, who are assisting me. NOTE: Two other meetings are occurring at the same time in other areas of this complex that may have a bearing on our attendance: Laau Point, and Kamehameha Schools hoolaulea planning. Todd Yamashita (Molokai Dispatch) and Teeia Silva noticed moving back and forth between these meetings.

2. Persons who signed in on the attendance sheets were: Cappy Caparida, Byron Espaniola, Vaai Seumalo, Teeia Marcellino Silva, Lionel Silva Jr., Dan Marcellino, Wayne Puaoi Jr., Tye Puaoi Marcellino, Rusty Puaoi Marcellino, Kyrie Yonehiro, Kelly Wooldrigde, Michael J. Mangca, Roberta Mangca, Jenchoe Seumalo, Janelle Seumalo, Halona Kaopuiki, Joseph Kalipi, Irene Kaahanui, Clarence Halona Kaopuiki, Sheila Awae, Yolanda Tanielu, Ese Tanielu, Mitchell Duvauchelle, Tubz Kalipi, Gandharva Ross, Colette Y. Machado, Milton Place, Chris Mangca, Wade Buscher, Rick Ballas, Mac Poepoe, Tante Ilaban, Damien K Place, Sr, Mervin Dudoit Su, Mel Uemura, Eddie Tanaka, Elizabeth Poepoe, Karen Poepoe Kamalu, Noelani Lee, Cora Schnackenberg, Todd Yamashita, Vanessa Gonzales, Keni Reyes, Larry Aalona, Johna Sabas, Anela Albino, Kelii Alcon, Bobo Alcon, Glenda Mawae

## II. Background

- A. Public hearings were held in July 2006, statewide to receive testimony on the preliminary proposals. These proposed rule changes are the result of public input and discussions held to reach solutions to various problems.
- B. Approval to conduct this public hearing has been obtained by the Board of Land and Natural Resources (11/17/06).
- C. Copies of the administrative rules are available for inspection at the table near the entrance. During this hearing we want to get your testimony on these proposals.

## III. Notice of public hearing

- A. Notices of this public hearing were placed in the December 17, 2006 issues of the Honolulu Star Bulletin, Hilo Tribune, West Hawaii Today, Maui News, the Garden Island, and the Molokai Island Times (Dec. 20). (legal ad should be posted at the entrance of the hearing location)

## IV. Hearing procedures

- A. This hearing will be conducted as follows:
  1. I will explain the proposed changes to the administrative rules.
  2. Then I will call on those who have signed up to testify as they are listed on the sign in sheet.
  3. Please keep your testimony brief and on the subject in order to allow all those who came tonight, the opportunity to testify.
  4. After those who signed up have presented their testimonies, I will ask if anyone else wishes to testify.
  5. We are recording this hearing so that we can get a complete transcript of the hearing, so please state your name for the record.
  6. Please remember to respect the opinions of all testifiers, that this hearing is not an opportunity for accusations or rebuttals. This won't

be allowed. There will be differing opinions, and we respect that. Everyone has an opportunity to voice their opinions so that they may be considered.

7. If you have a question, please direct it to me, and I will find the most appropriate person to answer.

V. Rule Explanation

Mr. Puleloa read the rules to the audience.

VI. Testimonies

- A. As I call your name, please come to the microphone, and state your name.

1. Joseph Kalipi (youngest son of Billy Kalipi)
  - a. Although dependent on use of lay nets, apologized for not participating more fully with community's effort regarding this issue;
  - b. Lay nets are important to his family because they are used to provide food for the table and to satisfy cultural practices;
  - c. Asked if fishing on Molokai can be limited to only Molokai residents;
  - d. Supported Molokai Special Rules;
  - e. Particularly agreeable with the provision that allows him the use of six pieces of lay nets over a 12-hour period.
2. Byron Espaniola
  - a. Represents the subsistence fishermen from Maunaloa;
  - b. Claims regulating agencies and outsiders often do not quite understand the importance of subsistence fishing (apple vs. oranges analogy);
  - c. Fishes the west side of Molokai almost exclusively;
  - d. Considers himself a subsistence fisherman; only for *kaukau*;
  - e. It would be a terrible shock for everyone if DLNR prohibited the use of lay nets for fishing;
  - f. Supported the proposed Molokai Special Rules.
3. Colette Machado
  - a. Elected OHA trustee for Molokai island;
  - b. Explained the process by which the Molokai community undertook to reach this point where DLNR is entertaining special rules for the island's net fishermen;
  - c. Lay net "crisis" the result of political pressure from outsiders, to include certain environmental groups and other NGOs
  - d. Prohibiting outsiders from fishing on Molokai most likely curtails a constitutional issue;
  - e. The lack of enforcement officers on Molokai is a major problem;



- f. Reiterated that sub-section “g” was not the doing of the Molokai community;
  - g. OHA fully supports the Molokai Special Rules.
- 4. Mac Poepoe (*de facto* *konohiki* of Hoolehua/Moomomi)
  - a. Molokai is special because most residents still fish for subsistence and cultural purposes;
  - b. Outsiders, to include government officials, do not fully appreciate this fact;
  - c. Supports the Molokai Special Rules, but cautioned against sub-section “g” saying it is important to obtain public input before creating or expanding prohibited lay net fishing areas;
  - d. People’s perspective should always be considered by State before creating any fishing restrictions.
- 5. Michael Mangca (former Molokai DOCARE officer)
  - a. Intimately involved with this lay net issue from day one;
  - b. Fully supports the Molokai Special Rules;
  - c. Strongly opposes sub-section “g”, saying giving a “blank check” to DLNR is foolhardy.
- 6. Chris Mangca (youngest son of Michael Mangca)
  - a. Uses lay nets from time to time;
  - b. Supports the Molokai Special Rules.
- 7. Roberta Mangca (wife of Michael Mangca)
  - a. Like her husband, has been involved with the lay net issue from the very beginning;
  - b. Supports the Molokai Special Rules;
  - c. Opposes sub-section “g”
- 8. Cappy Caparida (Judy’s husband)
  - a. Strongly supports the Molokai Special Rules.
- 9. Teeia Silva
  - a. Just moved back from Maui and noticed how much Molokai has changed;
  - b. Don’t want Molokai to become like Maui;
  - c. Her ohana on Molokai still depend on fishing to put food on the table;
  - d. Did not directly address the proposed amendments except to say that she fully supports traditional subsistence fishing for Molokai
- 10. Damien Place
  - a. Respected kupuna from Mana’e and lifelong net fisherman;
  - b. Along with his wife, involved with this lay net issue from the start;

- c. Lay nets have always been used to provide food for the family;
- d. Not too crazy about registering his nets, but will comply with this requirement if it allows him to continue fishing in the manner in which he is accustomed;
- e. Questioned what's to stop anyone from "transferring" registration tags from one net to another;
- f. Supports Molokai Special Rules

11. Mervin Dudoit

- a. Works with kids restoring One Alii fishpond;
- b. Subsistence fishing plays a major role in Hawaii's native culture;
- c. Agrees strongly with Molokai Special Rules;
- d. A ban on Molokai akin to that on Maui would pose a huge problem, both for DLNR and the island's residents.

12. Eddie Tanaka

- a. Molokai resident but fishes commercially in Alaska
- b. Submitted a **handout** listing the various fishing license fees charged by Alaska, and asked that the State implement a similar scheme;
- c. Supports the Molokai Special Rules.

13. Leimana Naki (Judy Caparida's younger brother)

- a. Life long subsistence fisherman from Mana'e
- b. Subsistence fishing still an integral part of his ohana's lifestyle
- c. Must be allowed to continue using his nets as he has been doing all these years;
- d. Fish still plentiful on Molokai; one just needs to know how to catch them;
- e. Supports the Molokai Special Rules;
- f. Objects to sub-section "g"

14. Gandharva Ross

- a. Agrees with Molokai Special Rules
- b. Says State should consider incorporating traditional Hawaiian knowledge whenever creating fishing rules;
- c. Wanted to know how anyone, to include DOCARE, is going to know how far 1,320' is;
- d. Objects to sub-section "g"

15. Kamalu Poepoe (wife of Mac Poepoe)

- a. Whole heartily endorsed Molokai Special Rules;
- b. Objects to sub-section "g" claiming it will give DLNR a free reign to created new lay net prohibited areas, which may be on Molokai without consulting local people first.

16. Noelani Lee
  - a. Executive Director of Ka Honua Momona International, a non-profit organization based on Molokai; funded by ANA to raise certain native reef fish species in restored fishponds to be re-release back into the ocean;
  - b. Supports Molokai Special Rules, but objects to sub-section "g"
17. Cora Schnackenberg (daughter of Judy Caparida)
  - a. Hawaii illegally overthrown, and therefore DLNR has no right to tell us how to fish;
  - b. Long winded list of alleged wrongdoings by Westerners in Hawaii;
  - c. Glad to learn tonight that the Molokai community was allowed the opportunity to provide input in State's lay net regulations;
  - d. Supports Molokai Special Rules, with reservations.
18. Mitchell Duvauchelle
  - a. A younger member of a prominent Molokai ohana;
  - b. Uses lay nets to feed family and also on special occasions like baby luau, family reunions, weddings, funerals, etc.
  - c. Must be allowed to continue to use his nets in the manner taught to him by his kupunas;
  - d. Supports Molokai Special Rules, but objects to sub-section "g"
19. Judy Caparida
  - a. Provided a long narrative to describe the events leading up to this point;
  - b. Acknowledged involvement of Liko Grambush, now no longer physically able to lead fight for native gathering rights;
  - c. Mahalo to DLNR for addressing lay net requirements of Molokai residents;
  - d. Mahalo to OHA for their involvement in this issue;
  - e. Strongly supports Molokai Special Rules, but not in favor of sub-section "g"
20. Elizabeth Lawrence (daughter of Mac Poepoe)
  - a. Supports Molokai Special Rules;
  - b. Objects to sub-section "g"
  - c. First of two speakers who elected to testify without first signing in.
21. Vanessa Gonzales (Judy Caparida's daughter)
  - a. Second of two speakers who elected to testify without first signing in;
  - b. Understood that this hearing was the culmination of a long process and a huge concerted effort on the part of the Molokai community;
  - c. Supports whole heartily the Molokai Special Rules.

- B. Late testimonies: Persons unable to attend tonight or wishing to present additional comment, may mail written testimony to us by February 1, 2007.

Please mail testimonies to:  
Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 330  
Honolulu, HI 96813

VII. Decision-making on the proposals:

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR.
- B. If approved by the Board, legal review will be done by the Attorney General, and then if approved, will be given to the Governor for her final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective.

VIII. Adjournment

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. This public hearing is now adjourned.  
Time: 8:30 P.M.
- B. Drive home carefully.
- C. Short closing prayer offered again by Judy Caparida.

Public Hearing  
Amending Hawaii Administrative Rules  
Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear

Hearing Location: Chiefess Kamakahelei Middle School, Kauai  
Hearing Date: January 16, 2007

I. Introduction

A. Opening

1. It is now 6:10 P.M. and this Public Hearing is called to order.
2. This is a formal Public Hearing on the Administrative Rules of the D\_L\_N\_R\_.
3. My name is Francis Oishi and I am a Program Manager with the Division of Aquatic Resources, and I will be conducting this hearing.

B. Purpose

1. The purpose of this hearing is so that the Department can receive public testimony on proposed changes to administrative rules on lay gill nets. It is to afford all interested persons an opportunity to submit data, views, or arguments on these proposed changes. For Chapter 13-75, these proposed rule changes would establish a process by which the Board of Land and Natural Resources can make changes to areas closed to lay net fishing, and to create special rules for lay net fishing in State waters off the island of Molokai.
2. I hope that all of you have signed in. If not, please do so, so that we may have a complete record of all persons attending this hearing.
3. There is also a separate sheet to sign for those wishing to present testimony on the proposed rule changes.
4. When it is time to testify, I will call the names in the order that they are listed on the sign-in sheet.
5. Attendees as listed on the Attendance Record: Lester T. Matsushima, Bruce Y. Takekuma, Sharon Pomroy, Allan Nagao, (Wade Ishikawa, DAR Kauai).

II. Background

- A. Public hearings were held in July 2006, statewide to receive testimony on the preliminary proposals. These proposed rule changes are the result of public input and discussions held to reach solutions to various problems.

- B. Approval to conduct this public hearing has been obtained by the Board of Land and Natural Resources (11/17/06).
- C. Copies of the administrative rules are available for inspection at the table near the entrance. During this hearing we want to get your testimony on these proposals.

### III. Notice of public hearing

- A. Notices of this public hearing were placed in the December 17, 2006 issues of the Honolulu Star Bulletin, Hilo Tribune-Herald, West Hawaii Today, Maui News, the Garden Island, and the Molokai Island Times (Dec. 20). (legal ad should be posted at the entrance of the hearing location)

### IV. Hearing procedures

- A. This hearing will be conducted as follows:
  - 1. I will explain the proposed changes to the administrative rules.
  - 2. Then I will call on those who have signed up to testify as they are listed on the sign in sheet.
  - 3. Please keep your testimony brief and on the subject in order to allow all those who came tonight, the opportunity to testify.
  - 4. After those who signed up have presented their testimonies, I will ask if anyone else wishes to testify.
  - 5. We are recording this hearing so that we can get a complete transcript of the hearing, so please state your name for the record.
  - 6. Please remember to respect the opinions of all testifiers, that this hearing is not an opportunity for accusations or rebuttals. This won't be allowed. There will be differing opinions, and we respect that. Everyone has an opportunity to voice their opinions so that they may be considered.
  - 7. If you have a question, please direct it to me, and I will find the most appropriate person to answer.

### V. Rule Explanation (summarize the rule changes).

The Department of Land and Natural Resources is proposing to amend Hawaii Administrative Rule Chapter 13-75, Rules Regulating the Possession and Use of Certain Fishing Gear.

The proposed changes would:

- Provide for the establishment or modification of lay net fishing prohibited areas through formal action by the Board of L&NR at a publicly noticed meeting.
- Provide for a listing of lay net fishing prohibited areas using a table and maps, or as amended by subsequent BLNR action.

Notwithstanding the provisions of section 13-75-12.2, for the State waters surrounding the island of Molokai:

- Make it unlawful for any person to use lay nets that exceed 750 feet in length and more than 7 feet in stretched height;
- Make it unlawful for any person to use any lay net with a stretched mesh of less than 2 3/4”;
- Require any person who uses a lay net to register and obtain identification tags from the Department (for those lay nets);
- Require that when set, that the lay nets be marked with at least two surface buoys at each end; such buoys shall display the department registration number, be marked with reflective tape, and be large enough to be visible with the naked eye from a distance of 1,320 feet;
- Limit the maximum time the net can fish (be soaked) to 12 hours, after which that net cannot be used again for at least 24 hours;
- Require leaving a minimum distance of 1,320 feet from any lay nets that are already set;
- Require at least 2 inspections of the entire length of lay nets that are set, and to release unwanted, prohibited, threatened or endangered species; and
- Provide for a penalty for violating any provision of this subsection under chapter 187A, HRS.

## VI. Testimonies

A. As I call your name, please come to the microphone, and state your name.

Sharon Pomroy: My name is Sharon Pomroy, I live in Anahola. I'm here tonight to speak in support of the proposal for Molokai, the exemptions for the lay net fishing. There has been since August, three Puwalu meeting on Oahu, that took in cultural practitioners from every island in the State to share their mana'o on Native Hawaiian techniques of gathering and fishing. A number of those people were from Molokai and a lot of them were responsible for these proposed changes. I understand the need on Molokai for subsistence fishing is very great because unemployment on the island is very high. You either hunt or fish to survive. Cutting their fishing time down to what the proposals are now, I believe, would be detrimental to the community. I support the Molokai exemption.

Parts of this administrative rule proposal are detrimental to the Native Hawaiian and the Native Hawaiian community at large. You are trying to force us to comply with fishing rules and regulations that do not benefit us. We are the host culture of this land. In accordance with the Constitution of Hawaii, any kind of proposed changes that is going to adversely impact the Native Hawaiian community requires an EIS and

public hearings. The Constitution says that the State should protect and preserve the culture. If you take the Hawaiian out of the picture, there is no culture. In order for us to pursue our cultural heritage, you have to allow us, in good faith, to practice our culture in taking fish, not overfishing, us regulating ourselves. I grew up learning to pass by all the big fish. Everybody else like the big fish. I was taught not to take the uhu over five pounds cause that's the breeder. Those guys are going to make the thousands of babies you going to see on the reef every spring. The big 5-8 pound kala, same thing. The kumu, the weke, the same thing. Take the smaller ones, the juveniles. That's the kind of practices I grew up with. So we always had breeders out in the ocean. Nowadays, the spear fishing contests. They have them on every island, all the time, and everyone wants the biggest fish they can find, the most weight. They take all the breeders. If you want to improve the brood stocks, you have to protect the big breeders. Maybe you should look at that aspect of regulating what size you can take. They do that all over the mainland. You can only take from so many inches long up to so many pounds and that's it. If it's under or over, it goes back. That's to protect the breeders and the brood stock. Those practices should take place here. I really think that to preserve the culture of the host people, they got to look at the Native Hawaiian and preserve the rights, otherwise, we not going to have the culture anymore.

Allan Nagao: My name is Allan Nagao. I'm a commercial fisherman. At this time, I'd like to make the recommendation that whatever the 12-hour limit for Molokai as the set time (for lay nets) be adopted for Kauai also.

Testifying on 13-75-12.2, item 9, use a lay net in freshwater streams or stream mouths. I'm totally opposed to that. Most of the fish I catch can be caught only in freshwater streams or stream mouths. Also, on item 10, use of the lay net only during two hours after sunset to two hour before sunrise. I also want to have this deleted. Most of the fish I talked about earlier can be caught only at night.

Commenting on 13-75-12.2(2), the net length of 125 feet. That should be the same as Molokai, 750 feet.

On the matters of closed areas on Kauai, Kauai should be left open. Weather dictates where and when we fish at any part of Kauai. It should be left open throughout the island of Kauai.

Bruce Takekuma: My name is Bruce Takekuma. I live Kalaheo, Kauai. I came to this hearing to find out about the no fishing night-time. Kauai should be omitted from this provision. How you catch night-time fish during the day time only? I go for menpachi, holehole. They come out only night-time. How we going to catch them day-time only? You don't try to save the menpachi, you only saying no fishing. Manini sleep night time, they go spear them. You dive night-time you see them all sleeping.



They don't have chance with the divers. You don't close diving. I would say to omit the night time no fishing from this thing.

The size of the gill net or throw nets, we should be allowed to keep whatever we catch. Right now, if you say the size of the gill net is 2 ¾ inches, that would be a ½ pound papio, not one ¾ pound papio like the regulations say we can keep. When they gill, they die, and we got to throw them back. That's waste. I would like that changed. Whatever we catch with the net, we keep. Not the game warden tell us, if you catch them you possess them. But if they dead, only the crabs and everything else going to eat them. That's what I would like to see done.

- B. Are there others who wish to testify?
- C. Late testimonies: Persons unable to attend tonight or wishing to present additional comments, may mail written testimony to us by February 1, 2007.

Please mail testimonies to:  
Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 330  
Honolulu, HI 96813

VII. Decision-making on the proposals:

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR.
- B. If approved by the Board, legal review will be done by the Attorney General, and then if approved, will be given to the Governor for her final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective.

VIII. Adjournment

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. This public hearing is now adjourned.  
Time: 6:50 P.M.
- B. Drive home carefully.

Public Hearing on Proposed Amendments to  
Hawaii Administrative Rules (HAR) Chapter 13-75,  
Rules Regulating the Possession and Use of Certain Fishing Gear  
Lihikai School Cafeteria  
January 17, 2007

[Transcript by S. Hau]

It is now 6:10 PM and this public hearing is called to order.

This is a formal hearing and the administrative rules of the Department of Land & Natural Resources DLNR. My name is Skippy Hau and I am an Aquatic Biologist with the Division of Aquatic Resources. And I will be conducting this hearing.

The purpose of this hearing is so the Department can receive public testimony on proposed changes to administrative rules on lay gill nets. It is to afford all interested persons an opportunity to submit data, views, or arguments on these proposed changes. For Chapter 13-75, these proposed rule changes would establish a process by which the Board of Land & Natural Resources can make changes to areas closed to lay net fishing and to create special rules for lay net fishing in State waters off the island of Moloka'i.

I hoped that all of you have signed in. If not, please do so, so that we may have a complete record of all persons attending this hearing. There is also a separate sheet for those wishing to present testimony on the proposed rule changes. That's the yellow sheet. When it is time to testify, I will call the names in order that they are listed on the sign-in sheet.

At this time, I'd also like to introduce Russell Sparks who's our information specialist here on Maui.

Public hearings were held in July 2006, statewide to receive testimony on the preliminary proposals. These proposed rule changes are the result of public input and discussions held to reach solutions to various problems. Approval to conduct the public hearing has been obtained by the Board of Land & Natural Resources on November 17, 2006. Copies of the administrative rules are available for inspection at the table near the entrance. During this hearing, we want to get your testimony on these proposals.

Notices of this public hearing were placed in the December 17, 2006 issues of the Honolulu Star Bulletin, Hilo Tribune, West Hawaii Today, Maui News, The Garden Island, and the Molokai Island Times on December 20. Legal ad should be posted at the entrance.

This hearing will be conducted as follows. I'll explain the proposed changes to the administrative rules. Then I will call on those who have signed up to testify as they are listed on the sign in sheet. Please keep your testimony brief and on the subject in order to allow all those who came tonight, the opportunity to testify. After those who signed up have presented their testimonies, I will ask if anyone else wishes to testify.

We are tape recording this hearing so that we can get a complete transcript of the hearing so please state your name for the record. Please remember to respect the opinions of all testifiers that this hearing is not an opportunity for accusations or rebuttals. This won't be allowed. There will be differing opinions and we respect that. Everyone has an opportunity to voice their opinion so that they may be considered. If you have a question, please direct it to me and I will find the most appropriate person to answer.

The rule changes.

The Department of Land & Natural Resources is proposing to amend Administrative Rule Chapter 13-75, Rules pertaining ah. Rules regulating the possession and use of certain fishing gear.

The proposed changes would:

Provide for the establishment or modification of lay net fishing prohibited areas through formal action by the Board of Land & Natural Resources at a public noticed meeting.

Provide for a listing of lay net fishing prohibited areas using a table and maps or as amended by subsequent Board of Land & Natural Resources action BLNR.

Notwithstanding, the provisions of section 13-75-12.2, for the State waters surrounding the island of Moloka'i:

Make it unlawful for any person to use lay nets that exceed 750 feet in length and more than 7 feet in stretched height;

Make it unlawful for any person who use any lay net with a stretched mesh of less than 2  $\frac{3}{4}$ ";

Require any person who uses a lay net to register and obtain identification tags from the Department;

Require that when set, that the lay nets be marked with at least two surface buoys at each end; such buoys shall display the department registration number, be marked with reflective tape, and be large enough to be visible with the naked eye from a distance of 1,320 feet;

Limit the maximum time the net can fish (be soaked) to 12 hours, after which that nets cannot be used again for at least 24 hours;

Require leaving a minimum distance of 1,320 feet from any lay nets that are already set;

Require at least 2 inspections of the entire length of lay nets that are set, and to release unwanted, prohibited, threatened, or endangered species; and

Provide for a penalty for violating any provision of this subsection under chapter 187A, HRS (Hawaii Revised Statutes).

Could I get the list?

As I call your name, please come up to the microphone. State your name.

SH. Charles Villalon (test.test.)

CV. Thank you. My name is Charley Villalon. I oppose the rules proposed by DLNR. The actual objection to the legal requirements of the lay net criteria. It's for environmental purposes and I understand that but if you go through the beginning of the rule change, 75 item 4g. 13-75-12.24g It says because of the critical need for protection of coral reefs and protected resources. Right there is. If that is the intent of the law, then this whole thing doesn't fit. It doesn't mesh. It's not applicable. I'll give you my background. I was a policeman from '75 to '85. '85 to '94 I was one DOCARE Officer. I am presently a Coastal Zone Management Inspector and you know what, these rules are not applied with the intent it should be applied with. I see people getting away. The judges are soft. What we need is, we need an environmental court. We need one judge that not on his couch on the weekend in an air conditioned room doing this to his tv. We need one judge that's out there in the ocean, that's out there (Uh. Charley pertain that.) So, I'm not in objection to the rules we gotta swallow. We gotta swallow em. One. Molokai suppose to have gone through this. We should know what Molokai says before we comment on Molokai. That's how the ahupua'a work. That's how the things work in Hawai'i. The final thing I like say is that all these rules should not be applied to the lawful Hawaiian government goes through it's appeal in court. Because these rules not going apply to me. I not going. I going be one lawful resident of my nation and these rules not going apply to me. So until you guys wait. You guys should wait and you know what encourage the lawful system the State system to look at the appeal by the lawful Hawaiian government. Look at that. Pursue that. Make sure they go through that prudently and make a decision. Then you guys apply 'em. If it's even applicable. Because all of this paperwork going through and then one bunch of Hawaiians like me, back in our homeland, you not going stop us from doing what our great grandfathers was doing. It's not going to happen. Okay. Thank you. (Thanks)

SH. Okay. Next testifier Mike Moran.

MM. Thank you. My name is Mike Moran. As I understand the change in this g that Charley was just referring to. The fact that the Department can change the location depending on the changing need just seems a practical matter to me. If the situation in the ocean changes, the rules should change with it. And that's what my only part of the testimony. I have no comment on Molokai. Thank you.

SH. Thank you. Felimon Sadang.

FS. My name Felimon Sadang and I oppose this gill netting. First of all, you had a meeting yesterday on Molokai right? You had a meeting on Molokai and Molokai went oppose this ban, this gill netting. Am I correct? You had a plan on Molokai. They had a plan and I think it's a good plan. We should look at Molokai's plan before we go ahead with anything else. We have a plan where you can work. Where we can govern ourselves and keep this Hawaiian traditional practice in use. Once we going do this now, we going start banning. You Hawaiian, all the Hawaiians on this island going lose everything in 20 years. You taking little by little and this is a little bit right now. Instead of just banning everything, we should govern ourself and Molokai has the system right now going. And we working with Molokai too. We should look into that before we make any more decisions on banning, banning gill netting because when you ban gill net, you taking away the Hawaiian culture already. That thing is going and we ain't going get nothing. About. At this proposal over here, this you guys bring over here it's for Molokai. Right? (I believe it was from Molokai people recommended that. Sh) This pertain to Molokai. Maui already had that ban. I don't know if that ban is in effect yet. Or is it still on the table. (No part of the rules. Because these are new sections, that's why we have this public hearing tonight. Sh) It is. (It still needs to be approved. Go through the Governor's office and review. Yeah. Not yet. It's not going to be implemented yet.) [Russ talking from the back]

FS. She never sign 'em yet. Okay. Just my opinion about that we should work with. I support Molokai for what Molokai are doing with this gill netting. They have a plan and we should investigate this plan before you go further than this. Aloha.

SH. Thank you. Kaniloa Kamaunu.

KK. My name is Kaniloa Kamaunu. I come from Waihe'e. As those previous, I'm opposed to this for the mere reason. You know you dealing, you making up laws that when you look at it, you have to look at it in two ways. One you have the cultural respect aspect of it. People have been doing this for years and they've been doing it successfully. They've been doing it without endangering what has been going on. Others have come here, pick up the practice, they violate a lot of the things go on. The Hawaiian culture doesn't teach to be damaging to the culture because that's how we feed ourselves. We not going kill everything on sight because we know better. When I grew up, the people I went with, when we went fishing, diving anything, where you go you take care of that place. You malama where you stay. Because you know, you take the house of the lobster away, the lobster, the other ones not going come back. So we grew up, you take care of what you have already. It's those that have come later on, that have taken advantage whether it's for money purposes, to make themselves wealth, to sell the fish in the stores, and all this other crap that's been killing the resource. Now the culture side of it, you know we taking care of that. A lot has been taken away from us from the State.

The State takes away a lot of the practices that we do which end up keeping us or keeping the aina the way it should be. You guys keep taking away, taking away. You taking away our identity. The fishing, the diving, the hunting that we do. That's us. You cannot kill us. You killing us. You killing us. You killing who I am. You telling me I can never be Hawaiian anymore. This is what the (?) is telling me. It's bullshit about all this other stuff about the fish. Who going benefit from this? I tell you the commercial guys. The guys in business with the hotels. You protecting them so that the people who come look at paradise is beautiful get fish. You guys take away the turtles. We cannot hunt turtles. And now look at the turtles. They all over the dam place. They the ones drawing the sharks. They drawing 'em in because they food. But, nothing going be done. They going do the same thing and with all them overpopulated, then what. Show you one example. That incident happened Olowalu several years ago. When they blamed the shark for killing the lady. Who was out of place? The lady or the shark? You mean, the shark cannot walk on land. A shark cannot walk on land. He what he suppose to be doing exactly what he suppose to do. What's she doing out 200 feet running around with dolphins. She got what she look it's inevitable. We one island. We live with shark. We live with eels. We live with all these creatures. But the Hawaiians survive. Cause the Hawaiians respect what's suppose to be done. It's all these guys coming from the outside that changing everything. If you like know the real issues, the real issues starts with the land. A&B is part of this. Wailuku Agribusiness, C. Brewer, AmFac, all these guys, Maui Land & Pine, these guys poison the land. They send all their poisons down where? Down to the ocean. Wailuku Ag control all the water. The 'o'opus they used to come back up, cannot come back up anymore. There's no water inside the rivers, the fish cannot survive. These other aspects. You know why they doing this to us, as small individuals, they can pick you out. They cannot take out AmFac because the County and State is in bed with these guys. We not going take out WailukuAg. Same reason, Maui Land and Pine. These issues no belong over here. You guys gotta take care of us, the people, the one's who pay the taxes. We pay taxes. You gotta take care of our rights. No go over shelling our rights of these tourists that come here so we can make a better place for them. You know, the hell with them. You know what I mean. That's all these issues about. You telling us stop who we going be. Stop our identity. You wrong. You cannot. And you know what, I doing do what I like. You pass your laws. Do what you like. Because you know what, you cannot change my culture you no mo the right. I pointing at you because you are part of this. You are representing the State. So I'm telling you right now. You no more right to take away my culture. You no more right for tell me I cannot be Hawaiian. So you take this back to your and you can tell 'em eat em. You guys no more the right.

18:32

Are there any others who wish to testify? ...just announce I'll write em down. You can come up...hand mike. O.K.

KK. Howzit. Aloha. Keeaumoku Kapu kou inoa. Ah. I'm from Lahaina, Kaua'ula. Apparently all this Hawaii administrative rule changes, I dunno whether or not this is based upon the general population. But, I get major problems pertaining to this whether or not this went through that ratification process from the Attorney General's Office or how is this process going to be basically implemented. And what the whole court procedures, what these guys do this I goin' be if I get pulled over for laying net, yeah, I like know what the process going to be when I gotta deal logistically or how would you say, um, to deal with the matter based upon me going confronting this issue in court. I no like deal with the ho'omalimali kind things that's pertaining to you coming over here and finding out information from us based (garbled). It's a done deal already. The commercial guy over here, yeah, and all these other commercial guys is trying to impregnate this thing for themselves. But, they forget about one thing. I think our constitution basically says Article 12, Section 7 and it also has a lot of things inside there that talks about the H.R.S. 7-1. You can smile and laugh all you like. But the whole thing boils down to if our rights are being deprived, I going to see this thing all the way through in court. And it's not coming out of your pocket. It's coming out of mine. And if I gotta push this thing that far, yeah, all because the foreigners came and oppress our lives as kanaka maoli now. You guys forgot your place. Yesterday, we had laws and the laws was based upon the kanaka maoli telling people where they can fish, where they cannot fish. Now all of a sudden, the oppressed becomes the oppressor. Now all of a sudden we the ones, the minority within the community and we not commercial fishermen. We fishing to survive. We fishing to feed our families. The part that pisses me off is now we gotta deal with this bullshit logistics. This is crap this. This is rubbish. Rubbish. That's all it is to me. Rubbish. Every time you guys always think that you doing it for the benefit of the population, we always the ones are gonna suffer the major consequence in the end. So, it's going to boil down to that. Whatever the procedure going to be, when I get pulled over and I get arrested or I get fined, you bettah wake up and get ready because there shall be a reckoning. Okay. If the process is going to have to boil down to a timely thing pertaining to ten-twelve years, eh I young. I'll take it as far as it needs to go. Akua is my witness. You will not deprive me of my birth right anymore, no longer. I'm tired of this already. Yeah. And I had to basically get involved in the process a lot just to understand. The manipulative lawmakers, the legislation and how they devised these so-called things for their benefit, which is a commercial benefit, yeah. And how they always have a tendency to leave the minority out of the big picture all the time. We the first to be considered in an application but we the last, yeah, to be considered in the whole. When the legislation wants something done, they gotta do environmental impact assessments. Within that, they talk about these so-called rights. You gotta come to the host culture, you gotta make sure, you know, that you're culturally correct. I know the do's and don'ts in this game. And I know what I need to do. And I know what you need to do. The bottom line it boils down to I think everybody needs to educate themselves based upon the host culture. And for the foreigners that came here, that wanted to be part of our life, guess what? You live in Hawaii, you'll never be Hawaiians. You'll never be. Stop oppressing us. Yeah. It will save a lot of people a lot of money. It's gonna damn well cost a lot for the State to deal with my issue in court. I don't care if it takes ten, twelve years. I'll fight this thing all the way to the end. Why?

Cause my kids. That's why, I not doing it for money. I not doing it for profit. So let's get down. I ready for the longevity. I like know when this thing going start because I going put one public notice in the newspaper. We going have one hukilau. The biggest hukilau you ever saw in Maui. And we all going lay net. I hope you got the enforcement agencies to back yourself up. And bruddah keep grinning. I not laughing. You talking about my life. Every time you draw negative attentions to me, I'm of this place. You not even from this place. So no give me your dam attitude brah.

SH. Ah. Next testifier. DeAnn Kaina.

[Confrontation between Keeaumoku Kapu and Darrell Tanaka; broken up by DOCARE Officer; MPD called.]

SH. Okay.

Good evening. Aloha kakou. My name is DeAnn Kaina and um, originally from Honokohau, Honokahua, um. I'm here tonight cause I'm against this banning. You know, um, to me the word ban is like saying I don't want to do my job, yeah. The word ban is like, um, that's not my job. So they're gonna ban this so they don't have to worry about it. But, you know what, there's a lot involved. Think about it. If I came to your house and I wanted to stay at your place for three days. But the end of the first day, just before the second day, unfortunately you find you and your household outside of your house. How would you feel if that was you? You know, we don't go to California and shove people out of their homes. Why come here and do that to us? I'm against this banning cause my father was a fisherman. We need to practice our traditional rights and privilege. We need to practice our traditional practices and have that continue. Even for people like Uncle Sadang over here and for a lot of us people. This is why I'm here tonight. To oppose of this banning. To oppose of all of these kind of things happening. I have a right to be here. Cause I've earned it through my family. So. For whatever reasons you guys have let it be known to you again and I testify to you that there is a god who knows all things. And he knows exactly what's happening. And if I have to be that one to go with these fishermens and to go and lay net and get arrested, I'm all for it. Cause I know I'm doing what is right. And that I'm not going to back down from it. You have my word. I will stand by my kupuna and see that they continue to live on and that what they have passed down to us continues to live on. Because it still exists today. Why can't we just be who we are? Why can't you just allow us to be who we are? Why can't you?

KK. Aloha my name is Kaipo Kekona. Ah. I never really prepare myself for talk about anything of the sort but, I going tell you guys about one story that I know. I twenty-three years old and about 17 years ago, I was six years old. And this Aunty Kaina over here, her husband and my father took me lay net for the first time in my life. And I was six years old and I had to sit on the tube and we swim from one bay all around the other side of the point get one bay that you cannot get to unless you swim. And we dragging three nets with us and they pulling around one little six year old kid. And before we went out, I sitting on the beach yeah, and I putting on my gear and I don't know nothing.



This was my first time so I stay whistling I enjoying myself. You know I excited it's five in the morning, still dark. You cannot even see the water. The wave coming, you no see the wave until the thing break and you see the white wash, just barely, five feet in front you. You know I stay whistling on the beach and Aunty's husband he scold me. He scold me in Hawaiian. I no even understand what he said. But my father knew, my father told me for shut my mouth. So I know that I not suppose to whistle. But I was young, so I started singing cause I was excited. And when I was singing, I got scoldings again. He yell at me in Hawaiian and I don't know what he saying. But he was mad. So we went out, they took me with them. The water was nice. We layed em, we dropped the net we come back in, we swimming in the waves came big. I was on the tire tube. I fell off the tube and my dad was swimming inside. The tube get the ply board on the bottom. The ply board came off wen hit my dad in the head. My dad got stitches. We had to rush him to the hospital and they blame em on me that day, you know, cause I was whistling, because I was singing. My father told me that he took that for me. Now hah, I thought that was the craziest thing in my life. What the hell we doing swimming across the bay at five in the morning no can even see inside the water no mo light, no more flashlight with you. They no go with flashlight. But now, that's the only thing that I love for do you know. Nobody can get me wrong. I no care. I go by myself. I get my friends they don't know how. Nobody teach them. Me, I go by myself I lay the net. I no care. That's what I do. That's what I was taught for do. You guys desecrating our culture brah. Taking that away from us. You killing us. You guys no see that. My fuckin heart is hearting brah. I like rage right now. I like slam everybody. Anybody cuz come outside we go. I no care. I not going stand for this shit brah. Like I said, I was six years old, I never understand what the hell we was doing but I know now. We was living. We was living our life. And I recall, we only caught couple fish. You guys talking about leaving the night, the net out overnight cause we catch the fish the tourist no see brah. And the tourist complaining about us depleting the fish. They no go in the water night time and look at the fish. Why you guys saying that we cannot leave em at night cuz the fish that come out at night we like eat. I mean brah. Think about it before you guys just jump in and say something we cannot do nothing at all. Think about it brah. It's the guys that fucking putting fish in the aquarium half way across the world that no mo over there. They taking our coral. They taking our fish. That's the guys that's the problem brah. These guys that taking tourists out there, catching fish like that. Aw. That's the problem brah. I dunno why you guys picking on us. Think about it brah. Get it straight.

SH. Is there anybody else? Okay. Ah. Russ will come by with the microphone. Can I have your name?

KK. You know what, I'm going to sit over here because it's to be addressed to the Department of Land and Natural Resources. And not to the people behind me. My name is Kalani Kapu. And I'm here once again objecting to those oppressive pilikia that you guys are putting us through. Us kanaka maoli. Okay. I have mentioned before when you folks came forth on the total ban on Maui. A'ole ho'olohe.

Nobody listens. So hana hou. You know, in our kupuna yeah. We had, we had a way, we had a reason on why certain things needed to be done. And when they could be done. And when they should not have been done. We had our kapu nights and fishing and in agriculture. So why you guys adding another kapu on what we already have as native Hawaiians, you know. Just by a show of hands, I like know how many people over here came out from Lahaina, all the way from Lahaina for this. You see the hands in this room. A lot of us came out all the way from Lahaina because our pili koko yeah. And our piko connects us to our ohana on Moloka'i. So these hands you see going up. We not maha oi and we not niele. We here for our ohana on Moloka'i. Why I say we not niele and we not maha oi is I like know what our ohana on Moloka'i feels about this. Nobody said anything, you know. Does these other people here tonight supporting this? No. The mana'o of our ohana on Moloka'i ale ikei. I don't think so. Cause I don't. I don't know. As for myself, I'm going to continue opposing this. And you know earlier, my brother came up and he went up and he started talking about, you know. He ready for get arrested. You know what, all of us are ready. All of us are ready and I will be one of them behind my bruddah at this hukilau. DLNR in closing, I like read one opening address that was read retired Chief Justice of the Hawaii Supreme Court William S. Richardson. And this is what Mr. Richardson had stated. In Kalipi vs. Hawaiian Trust Company Ltd. 1982, we determine that the gathering rights are protected by three sources in Hawaii law. First, the Kuleana Act now codified as Hawaii Revised Statutes Section 7-1. Second, an 1892 law Hawaii Revised Statutes Section 1-1 recognizing Hawaiian usage as an important exception to the common law and finally, in Article 12 Section 7 of the State Constitution protecting the traditional and gathering rights of ahupua'a tenants. The court held that lawful residents of an ahupua'a may for the purpose of practicing native Hawaiian customs and traditions enter lands within the ahupua'a to gather firewood, house timber, aho cord, you guys all know that's all written in the Kuleana Act. The court also stated that pursuant to Article 12 Section 7 of the Constitution, courts are obligated to preserve and insure such traditional rights for the record. So you know what, I'm ready to get arrested myself because read my shirt gang. We the evidence. We're not the crime.

SH. Okay. Is there anyone else to testify?

UK. My name is Uilani Kapu. I have. Kay, I'm going to start this off with I represent Kuilanikuikahi LLC which is Limited Liability Corporation that fights all land and water right issues. I'm the President for that. I also have spent three months, nine days total in puwalu regarding fishing rights. We had people from each moku, each island, in these puwalus. They have spoke out on their traditions and their rights. We have documentations of their traditions and they're against the banning of anything. I was brought up in this lifestyle of culture. Where you cannot deprive me to go to the ocean. You cannot tell me what I can and cannot do. When my kupuna wants it, you get it. No if, ands, or buts. We are talking about our kupuna. We are talking about our future and everything they have passed down to us. You are telling us to forget it. No. We are not going to forget what we have been taught.

We have not, we are not here, we are not going to stand by on this day when Queen Liliuokalani was thrown into prison. The worst day of all for you folks to pick. This is not going to happen. This is not pono. I did not spend these three months, a total of nine days with these kupuna who have willingly gave up their time to have come to this puwala share their practices and traditions in what they are still doing today. You're not denying them that. Makua are standing up for our kupuna and we will be here and our keiki will follow through. We have been through three of these meetings. We have had to find it out from friends last minute which is not fair because we have so much kuleana that we have to take of which is traditional rights to native Hawaiians, kanaka maoli. Our hiihiiwai, our 'o'opu are thriving in these streams but what? They're diverting these waters. We fighting that. Because we need that. When our kupuna are ono for that, we need to go and get it. A lot of our DLNR Officers know that. They have families that do that still yet. So it's hard for them to standby and say we gotta go arrest our own ohana. We know that. They share it with us. But it's their job. So we try to come out to these kinds of places to voice our opinions and our true knowledge that has been passed down to help these guys so they don't have to go over there and arrest their ohana. It's not easy for all of us. But like all of us have always spoken out. It is not going to be taken from us no matter what because we have our rights that still stand today. We have these palapala that the kupuna have put down on paper which they have really struggled to do that because it is traditionally passed down from families. We told them we need this. So Legislative does not have a place or a puka to take it away from us. It is not kanaka maoli who are ruining it for us. It is these immigrants that are coming in and commercial fishermen that are ruining it for us. The people of the aina. The people of this land. The people that survive on these waters and these lands. So, this aha moku that we are forming are gonna help regulate our own ahupua'a to restrict everyone that are not native because they are ruining it for us and it's not fair. It's not fair I cannot tell my opio, my kids or my grandkids I cannot take you out teach you this. But my kupuna taught me. It's not going to happen if I'm alive. And if my kids are alive, my traditions are going to be carried on. Everybodys traditions are going to be carried on. And we are going to regulate our own. We have already started because a lot of these people that live in these areas in their own ahupua'as are tired of seeing Filipinos coming in and raking. Micronesians coming in and raking. They're the ones that are raking. Not us. So enough is enough. Kanaka maoli have that right. You're not going to tell us to step into your office and tag our nets. No. A'ole. You're not going to tell us that we cannot go out and we cannot fight. And we cannot fish. We cannot pick limu. We cannot do our cultures. It's not going to happen. Because we are putting our alters back. We are banning everything that's hazardous to our waters. We're trying to shut down the dam jetskis in Lahaina because they are on our ahu, in the water that are poisoning our fish. That's the kind of stuff that need to be out. Not fishing. Cause I am not going to buy fish from the store that was sent here from Alaska or somewhere else when we have in our own waters. I'm not buying it from any body else. That's why our prices are so high. All of us here have the passion. All of us here understand our rights. All of us here malama. That's why if we didn't malama, we wouldn't be here. It's about who we are. Mahalo

SH. Thank you. Is there anyone else?

KK. My name is Kapali Keahi. I come from Lahaina. I come from Mala and ah Wainee. Ah. My family lived down Mala long-time. And ah. The fishermen and I remember, you know, when I was one sprat. That ah. My family was in one heated situation with the State. I remember when Clayton Hee was one Legislator. I was like what, six probably seven years old at the earliest. But that's when they went introduce ah, jetskis over there in Lahaina side and my family was kinda involved with tryna ah, you know, oppose the whole jetski coming into Lahaina and stuff like that. My family, ah you know, couple of em got arrested like that back in those days because we neva like the jetskis come in. My family used to fish the opelu inside there. They all opelu fishermen and ah, today, they knew why back then why had to stop that kind stuff and a, um, I don't know where you guys stand, you know, as officers for DLNR and stuff like that, and ah, I really like to know what you guys think, um. But ah, you guys only doing your guys job I guess, ah. But, ah, I know for sure I was young and we could tell when one jetski would pass, when one jetski would come around, and we could tell by seeing all the dead fish behind em. We knew one jetski was in that area cause get plenty dead fish inside, in the water and we always used to be in the water. Us, as kids like that. We could tell that one jetski was around there because of dead fish now. I know that the real enemy is hypocrisy that we all trying to fight. We all trying to fight against hypocrisy and those guys who not real fishermen. You know what I mean, just raking, you know. And probably get too much of that happening but, you know what, when Hawaiians told the State either for do something or not do something, the State neva listen. That's why we here today. (garbled) The State neva listen. Nobody went listen to the kanaks and now for impose this upon the very people who all along went malama this aina like this was their mother. You criminalizing Hawaiians with this kind stuff. You know Hawaiians not going stop doing em. How can we? This is how, this is how we became up in the world. This is how we came up into being. We from this reef, you know. We came from the reef and we going always go to the reef because that reef malama us. But, I feel like the State is leaning towards passing this anyway. (garbled) This is, still this is inadequate, I mean, you never make em good enough. Whatever you get yeah, it's probably o.k. but it's not good enough. The thing incomplete. You gotta add on that this not going supersede anything that get for do with native Hawaiians. This not going supersede our native rights. This will have no affect upon anything that we see as Hawaiians our rightful ah, our rightful, you know, ah, just our rights, you know what I mean. For us to be ah, for belong here again or anymore, you know like this is what, this is, this is basically our, our connection to this land which is the reef. And that's where we come from, you know, we come from this place, we come from this aina. So, if you guys most likely going pass this, you guys still incomplete. You guys gotta add on the part, the section where the disclaimer that this will not supersede our rights, basically. I would rather the DLNR work with, like with, with ah, Auntie Ui was talking about with the moku. If you guys can partnership or whatever, you know what I mean, but gotta have one failsafe somehow to all of this.

Gotta have some kind of failsafe to protect us, you know, because if you can work with, I would rather work with, I rather everybody work together with the moku, the moku councils in developing some kind of comprehensive plan to help balance everything out. We might as well talk about balance than, instead of you know, creating all of this banning. This not going solve nothing, you know. This only going make. This only going make one part of the population pissed, more pissed off. This is really calling us out as Hawaiians. This is really calling us out. So, ah, like I said ah, you know, the State neva listen. So hopefully, hopefully you guys listen. And ah, if you going pass em, make em only subject to, you know, foreigners, you know all the non-Hawaiians you know. Make em subject to the non-Hawaiians, not to us. Kay. Mahalo.

SH. O.K. Thank you. Is that the last testimony? One more. 54:02  
(Kalaniua Ritte)

KR. Eh, I came late so This meeting is about Molokai? This meeting is about the Molokai.

SH. These are Hawaii administrative rules and there's a section for regulations that Moloka'i people had recommended to the Department. So if you look at the section it's been underlined.

KR. So how come we doing em over here?

SH. It's State rules so they had to have public hearings throughout the State so it's being held on the different islands. (Okay. Okay...late) Tonight is for Maui. If you have any comments on the administrative rules you can make it?

KR. Just one comment. You guys going stop people from feeding their families, ho, you guys going need way more DLNR officers on Molokai. That's all.

SH. O.K. Was there anybody else? Somebody else had their hand up.  
Could I also have your name. no. Ok.

JK. Aloha.

SH. Could you state your name please?

JK. I'm, my name is Jacob Kapu. One other Kapu like everybody else over here. I just like confirm what they always saying about native Hawaiian rights. That's one Hawaiian government. Used to be the kingdom. That's the law that we using not no United States law. This ain't the United States law because this ain't the United States aina. This is Hawai'i. Kanaka maoli over here. I just like confirm that because that's the main thing that we writing off. This not one state of Ha, of the kind the mainland of America. The only reason they call it the State of America is because all the frickin the military that stay over here. That stay (?) our aina. I just like confirm that. All Hawaiian people, we was forced to be Americans be we ain't Americans. First they like give us their palapala saying that we Americans, social security card and all that kind shits. We was forced on that. We neva sign no agreement. Now you like take our fishing.

First they like take the mountains, the kind, put reservations. Now you going take our ocean. I don't think you guys should ban it at least. I don't know. I don't know about banning. That's one whole other step that. For banning the whole thing, um, at least make em like one seasonal, just like the lobsters. How come you make the lobsters seasonal? Or like all the other stuffs, how come they no make em like that? At least one, two, three months off of no fishing at least. Not no whole ban. That's outrageous that. That's what I think. Mahalo

SH. Okay. Thank you. Is there. Oh.

KK. Yeah. Keaumoku Kapu (followup)

Kala mai ia'u yeah for my outburst earlier. But, you know us Hawaiians over here, yeah. It's always an ethnic thing to divide cultures. But when somebody stay up speaking, have the decency and respect to honor the words yeah. That's all I ask for. I hate when the kind somebody sharing their heart, their intent, or their content, and we get people with side agenda on the side. It's like it's a game we're playing. This not one game. My wife went mention some important things on this puwalu session. Was three months, consecutive months which took us seven months to gather kupuna from all these mokus. Me and my wife was responsible of gathering 24 representatives for Maui to formulate the puwalu session, yeah. To make this a balanced thing based upon helping protect our environment and that going come from our elders, our kupuna. And our kupuna and the aha moku council is to formulate the aha ki'ole. Within the aha ki'ole, every ahupua'a has a representative that can actually help the enforcement agencies. If we get people not ma'a to our ahupua'a that come to our place and we don't know who they are and they not family. They going be regulated by us. And we going start regulating this thing. And it's not going to cost the State nothing. It's not going to cost the lawmakers anything. It's not going to cost any of us anything. What we going do, and it's going to happen irregardless what legislation says otherwise. We, the people of Maui going start monitoring our own areas. And guess what, it's going to be the benefit for the enforcement agencies, going be the benefit for the aquatics guys, going beneficial for the endemic ah, invasive species gangs in the mountains. Because that's how our system was run before. The konohiki, yeah, fine. But, no mo the konohiki now days. So we go to our kupuna within our respective ahupua'a. They formulate the plan. Twenty-four representatives on Maui who was responsible of finding representatives from their moku. Maui get 12 mokus. O'ahu get five. Moloka'i get like what? Four, three, four. Maui is the hugest island that has 12 mokus. And all of a sudden Maui, you talking about one total ban for Maui, restricted areas on O'ahu, restricted areas on Kaua'i, Moloka'i possibly no ban. I hate to bring this kind of issues up but I think we getting into discrimination types of issues too as well. Yeah. So we get discrimination, deparation (?) of our rights as kanaka maoli which the State, County, Federal agencies are mandated to protect those rights. We came for one kuka session in the college. And it was to encourage the younger generations to step up yeah. To be a part of the community concerns to try to create something so we, yeah. If there is issues out there, we educate the younger generation how to address those types of issues like over development. Yeah.

Inadequate ah plans based upon the County and the State what they get for the future. And coming from there to here, guess we palu the information to the younger generation. This is the kind of things you need to do to step up in our community to make life better tomorrow because of the mess we got ourselves into. I not blaming anybody. We gotta blame ourselves. Everyone in this room gotta blame all ourselves for our lack of responsibility based upon what we suppose to be responsible for. What? Majority of the blame goes on the people that had the magic wand and that's the State and that's the County. You guys are suppose to protect these things for the public benefit. But you neva. So now, we here to find general consensus from the community based upon what's coming for who? For the benefit of who? Not for the benefit of us. So this aha ki'ole, this Aha Moku Council, we never spend nine months, or seven months total. Three months within that seven months to wait, build the process on how we going be enforcing our own ahupua'a. And if anything does come down when it's too serious, then we call the guys. The problem is we get such little enforcement agencies, yeah. They cannot be at the same place all the time. They cannot be all over the place. So we going help them out. When people stay reaping from our place, we going be the landlord. Irregardless of what everybody says. But we, found our irresponsibilities because we was tainted in the idea to believe that you guys was our landlords. But you not. We are in charge of our own destiny and it's been proven. Mr. Peter Young you have failed in your responsibilities to protect the resources of Hawaii. This is a quote. This is the truth. 68,000 land mass and ocean resources. One Department responsible for. DLNR. Sorry, we taking charge of our own destiny now. And kala mai, but, some guys might be enforcement officers that might come fish in my ahupua'a. Then I might have to tell bruddah. I like see what you get in your bag. They might not like that either. Some of kanaka families that might be fishing, or overfishing in our ahupua'a. We gotta be the ones for tell em sorry you cannot. So what kind of mess is that gonna churn up? The kinda mess that the State loves to happen when Hawaiians fight Hawaiians. That's always the case. So the State always wants to play the landlord to come inside and say okay come on people let's work together. I going make one new kind of ???, one new kapu, yeah. To protect all of us. Not going happen. We already submitted the plan. The papers are in. Legislation was today. The puwalu, the Aha Moku Council, all the information was submitted. So, in reality, we here for nothing. We here for nothing. It was stated before and I going re-state that. We in charge of our own destiny. And we not letting you guys be our baby sitters anymore because you failed. Thank you.

Persons unable to attend tonight or wishing to present additional comments, may mail written testimony to us by February 1, 2007. Please mail testimonies to:  
Department of Land and Natural Resources  
1151 Punchbowl Street, Rm 330  
Honolulu, HI 96813

Is there anybody new who wants to testify? I'd like you folks to pertain the comments to the administrative rules. We will forward your folks comments to the Department but tonight's hearing pertains to the administrative rules.

Okay. Could I have your name?

This girl here is Rachel Kapu. She is hearing impaired and does not speak. But she wishes to say a few words. And her first question, you gonna love this Skippy, you know we support you brah you help us out in Lahaina you know. But ah, she like know if you the man that make the law? So I told her no. Then her next question was what the hell you doing here then? The next thing she wanted to tell everybody is those family out there that live off fish. They have no money. That camp down on the beach and the only prized possession that they have besides their family is their net. And she wants to know how do you plan on supporting them when you ban the lifestyle we're living. They have no job and they live off the ocean. She said she is taught by her family to gather food for her family to have dinner without having to go to the store and use her money. She says that the law should not be made to ban the nets. People have to live off of them. She plans on teaching her Hawaiian family to fish with the net. That is all she has to say.

SH. Um. To answer her first question, I'm a representative for the Board of Land and Natural Resources. If you weren't here at the beginning, okay....I'm a representative of the Board of Land and Natural Resources and the administrative rules will be. Like I said, it still has to be passed.

SH. Ah, is there someone next? Can you identify yourself please?

VM. Aloha my name is Vicki McCarty. I think you've answered the question that I have. My question is this already decided? Is this meeting just a formality? Or is there real opportunity for these words that have been spoken here tonight to be heard. And I'll offer that question to you. Is this already decided?

SH. The reason why we have this additional public hearing is those two sections that have been added were really brought up previously and the rest of the State really was not able to comment on it because it was not part of the whole original public hearing. And that's why we were asked to do another public hearing to bring out these two sections. That's what we are trying to get comments to.

V.M. Okay thank you. I would ask you humbly and respectfully to take these words you have heard here tonight and repeat them to the people that make the decisions. There's been a wealth of knowledge in here tonight. And I think you understand and I think your officers understand and I'm not sure if others understand that are not in this room but will be making the final decision. The people that you see before you are not the only people that are standing up and speaking out loudly about this issue. Every member of the families of every person in this room they go back farther than you and I can count have a say in this issue.



Every generation that comes after the people in this room will have a say in this issue. This is bigger than the DLNR. It is bigger than a rule on paper. It is part of the culture. And that culture cannot be legislated. And these cultural practices cannot be legislated. If you enact these rules, they will punish the very people that have protected this place and everything that goes with it. The people that respect their culture will still respect their culture. And they will still follow their traditional practices. The people that have never respected it and have violated the very rules of nature will continue to do so. Those rules will not stop that. There are not enough enforcement officers to stop those violations. You're taking, you're taking an issue and you're doing something with it. You cannot possibly win. You cannot possibly be successful in this endeavor. The roots go too deep and too far back and they go too far forward. Again I ask you. Please take these words that you have heard here tonight and don't translate them to paper because they won't sound the same, they won't read the same. But verbally communicate what you have seen here and what you have heard here. And try to make those others understand. If you cannot see all the people in this room and all the people lined up outside of this room, I hope you can at least feel them. They're watching. They're counting on you and your wisdom to carry their message. Please do so. Mahalo.

HN. My name is Hanohano Naehu from the island of Moloka'i. Like Uncle Keaumoku was saying, we just came from this thing at Maui Community College. We are very happy, very proud to be Hawaiian. We wanna take on our kuleana, our responsibility. Why, cause we got enough evidence that you guys doing one terrible job. I tell you right now. This is not threats. This is the truth. You guys—we not going let you guys come Molokai make decisions for us. I think my brother said em early you going need more DLNR guys. This is very, very, important to us. If not, necessary for our survival. Like I was telling everybody else, if we know how we suppose to act, in any given situation, what you going do when they going try to kill you in the corner. I no think we going be nice. That's not how for act. So take this. However you like, back to them. But realize that eh. We get 'nough evidence of you guys being poor stewards of our aina, poor stewards of our ocean. And 'nough. I no hate nobody. We not bad people. We get nough evidence already that you guys terrible. Poor ting. Disgrace. All the kind words come to mind. So you guys gotta shape up. And you know what. Trust in the host culture. With the ah, good thing for have. And good thing for pursue right now. Because get one whole bunch of us young ones. Like I said, we get nough evidence already. So open your mind, especially open your heart, pursue "knew?" how for live here. Manage this place the best. And that's what we're after is for pono. Not afta money. Not afta prestige or power. Just after pono. So open pepeiao, listen, feel, and take that back with you the truth. Thank you. Get us more involved because this is our house. We not renting this thing from you guys. This our house. 'Kay, so work with the host culture. If not, nothing you going do going work. Nothing. Aloha.

(Leslie Kuloloio)

LK. Aloha Skippy. I'm Leslie Kuloloio. I'm sorry I'm late. I'm just over here to speak about what's happening. And Skippy I wish this kind of hearings for the record that I think there should be a representative from the State.

Like always, the State is always short-staffed. And I wanna ask the question if you are the one to represent the State as a specialist who suppose to conduct this kind of hearings. During public testimony on issues that relate to the ocean. Are you the specialist that we as born native of Hawaii or another turn Hawaiian native or kanaka maoli? Are you the one to represent the kind of ah. The people that the DLNR suppose to be part of our eyes and ears rather than our hatchet man in regards to our culture. I'm asking these questions because I'm against these hearings because the last time I appeared the hearing over here, I was flabbergasted and conquered by pali haole And I talked very openly, not prejudice but there were more public haoles here that ridiculed me. And I didn't know how I would fit in a hearing like this being native born. A practitioner family that comes from Hawai'i and from the island of Maui for over 400 years. How do you put me in the kind of class because of this issue. And the issue is when this whole thing started to appear. I'm asking that it's so hard to ask for something that doesn't make sense. You know. And get so much bureaucracy and you know, you know the law Skippy. Peter Young know the law. Our legislators are beginning to run afraid cuz they're not showing up too. We just came back from the conference called a puwalu, called a aha moku. Whereas native Hawaiian practitioners from throughout the State of Hawaii has been following this issue. We are concerned and now we think that it's time that we walk the talk. That we come up in front the hearings and to identify. Skippy. Identify ourselves open and honestly who we are. And we are speaking to our guest, I can only speak for myself tonight, because I don't know how each individual is going to put themselves in regard to how they're going to pa'a to this meeting, meaning stick to this meeting but I'm here to speak how can you protect my family whose been here for over 700 years as fishermen. Do you have a category for me? Do you have a category for our people here? Do you have a category for the practitioners of old Hawai'i before 1778? Before the white man and Captain Cook came here? The po'e haole had the Great Mahele. Before Pa'ao the Tahitians came here? We are here before that at 0600 years. Where do you put me and where do you put my ohana, my extended family? We are all family, many of us here. Where do you put us? The word banding (banning?) that started this whole mess didn't come from us. It came from all the users of the ocean and they are not here tonight. Somebody in the Legislature gave me their names. And the signed resolution of the bills. Where them? They're not here. They put the dig on us. And when you do a ban, when you ban something, especially the State, who suppose to be the trustees of managing our resources whether it's the ocean, whether it's the forest, whether it's the birds, whether it's the fish, whether it's all the natural resources, it's the State DLNR that we hold in trust in partnership. In partnership. And even by native rights, yeah, we like to work together. This is not working together. We as Hawaiians know how to manage the natural resources. Something's wrong. We know how to manage when we over manage, we know who the guys using. We see immigrants come to Hawai'i. We see different ethnic culture groups just laying the nets. And killing? it. Violate them. Or register us. Tonight Skippy, register us.

Give us one paper that say o.k. all those who live here a thousand years sign up by genealogy. By genealogy. By genealogy. By "fakuohao" All those who have fishing names sign up here. Did you folks ever do that? No. We have families with fishing names that was passed on to us. That knew the fisheries of old Hawaii. You folks just learning that. That's why we no give you "folks" the secret. Because you passem to the tourist. For their escort boats and tourist boats. We fish in the old way. But look at all this new guys who come in to Hawaii. All technology. GIS, all the GPS. Us guys using landmarks. Who deserve? Who playing the game? When it comes to ola, Skippy. You Skippy. You the one over here you stand the jerk. Yeah. You. You have to put down in your record. Is this being recorded? (garbled) Why? Is it? It should be recorded. Our voice not suppose to be here for nothin. It's a public meeting so that you can go back and say this not to say here guys. This is it. But anyway, go give you guys testimony. You know how it feels? And the last time I was hit hard by haoles. I hate to use that term. Haoles that stay encroaching the Sanctuary. Going to Molokini. If you going abandon them, you abandon Molokini too. You shut down Molokini. You put the gill net down you shut down Molokini then the fish can swim and get life again. You think that's fair. You shut down this, you folks shut down the rest (garbled) at Kahikinui. Yeah. Down at La Perouse. Chase everybody out. Our system never allow people swim. I never put the law that tourist can go swim with the snorkels for 365 days in LaPerouse, the reserve area. Is that management? No? That's not listening. It shows the State of Hawaii don't know what the heck they doing. And how to manage the reserve. I'm not getting personal to the workers. But I'm just saying how it is. Finally, I just wanted to say. Skippy. We have a group called the Aha Moku and I ask everybody to stand by. With this aha moku, this consists, going be consistent of native Hawaiian practitioners and we'll be working with the Legislators. Let me post one warning now. So that we, the Legislators, can work and see how it can handle each ahupua'a, each district. The twelve districts of Maui. How and how many of the practitioners come from each district. And I'm sure plenty of these families qualify for that. They been fish akule. They use moemoe net. And they willing to register ourselves yeah. But don't tell us guys we, you know what abandon mean? You know what abandon mean? Or banding the gill net from not fishing? You know what it means people? Failure. It's bigger than what you folks think. It's let's say all us guys failure. No matter what culture. We gotta work together. I dunno I making sense. Banning is failure. Us failure? The governor not failure? The policy makers not failure? The mayor not failure? They could give a dam. The tourist industry not failure? All your chemicals in the water, at the apartments, condominiums not failure? Dumping all their junk outside there. The Maui sewage plant broken all that dodo and kaka to the ocean not failure? This. Is this the cure? Is this the cure? Don't you think we need to sit down and start talking and managing again. Give us a chance. That's all I'm saying. Skippy. Give us a chance to manage our resources now. As native Hawaiians. We need to because if you folks don't do that we going start pulling everybody together. Yeah. And we going manage 'em ourselves. Hey brah what you doing? Outta there. Yeah. Who you going jail? We ready for manage that but no put laws on us. Paper mean nothing. We like living in peace. And we need the kapu systems come back. We need to say everybody out of the water. Put signs. You know when you folks had the dodo down Waikiki, what happen? In Ala Wai, you folks went put signs. Watch out no go jump inside the water. What's happening to the oceans.

You folks been go make test. Yeah so the dodo no go on top the skin and in the eyeball. Is it the ??? management? It's kaka. So to Peter Young, to the Legislators, today, I'm sorry I'm kind a talking kinda long, long, but, I'm just trying to find out reality. This is an emotional subject and I'm glad I see now get lotta locals here. And I hope the locals understand where I'm coming from. I'm not fighting for myself. You know, I'm a net maker. I used to make net. You. If we stop the net using, that, that stop the Hawaiian, take away the Hawaiian name Hawaiian. You might as well cut down everybody. Really, this is serious man. If you folks ban something, it is failure on all of our part. It's just like telling you Hawaiians never keep up. But that's o.k., the tourists can go at Molokini. Dam it. Dam it. Oh they can go swim and guess what the law? I just heard one politician went tell me that you know what if they was gonna ban Maui, guess what? All the hotels, in front the hotels would be restricted from fishing and diving. What? Now who bullshitting? (garbled)

With the young kids catch, catch aweoweo, menpachi, so that they can learn the footprints of the past. No can go pick up limu. They been chop us from limu size all the way down. Where the hell the State going pay us kaukau at Foodland. You give me the money for the next, the 23<sup>rd</sup> Century. Hawaii getting better. No way. And I going tell you folks what. For my family, if we going get jailed, if my kids and moopuna gotta eat – dam it. You folks take me jail. You hang me, with my own net. But don't tell me I no can put kaukau in my moopuna's mouth. That's what's happening. And I'm glad we get this kind group like this. I'm not mad, I'm just frustrated. This is one stupid little palapala bill. Total. And we get different users. Divers. I heard there was one certain ethnic diving group that went push this bill. Just to divert us guys from. Blame us. Come on let's talk o.k. Where are the divers? I'm ready cuz when our aha mokus start signing up. We like everybody register their name from today on. We going manage e Hawaii. And I not speaking for Moloka'i or O'ahu, I just going speak three ahupua'as that I live traditionally -- Hamakualoa, Hamakuapoko, Honua'ula, outside the waters of Maui and Kaho'olawe. That's my traditional time frame. You find me where I fit culturally. Or you tell the tourists were they fit on Molokini. It's me or the brah. It's me or them. You folks down me with the net, then I down the tourists too. I'll go demonstrate outside Molokini with my boat. And I going tell you folks what it's hard like this. So let's work out solutions. Let's work out solutions. I can work out solutions. I can work out logic. I can work out pain. But I cannot work out somebody else's failure. No blame us guys for failure. That's all I have thank you.

SH. O.K. Les, just to clarify, tonight is a public hearing. It is being recorded. We'll send a copy of the recording to Honolulu.

Aloha, aloha ahiahi. i'a o kou apau. My name is Arca Kaina. I'm a kupuna with the DOE Hawaiian Studies. And of course one of my main concerns when listening to all of these um, things about what's happening to our fish really hits my heart. Because I have kindergarten, first to second graders. And if you were to ask mo'opuna today or ask any one of those children what is a manini? They don't know. If you were to ask them, um, show them a picture of the seaweed. They don't understand.

So you have to go down to basics. Go pick up the limu from the water and bring it up into the class to show them. And tell them the stories of how we, our people used the limu for food, for in place of our rights, for medicinal uses. And so um, to the State. It's very embarrassing. This is a very embarrassing situation. To allow these things to come about. To cause disruptions like this. And especially when taking the fish nets away from the people of this aina. Um, I have to teach my kindergarten, my second and my first graders, all the differences about the nets. And how the different types of net they had. Where they got their strings to make their nets from their trees. Where they got their hooks from. It came from the teeth of the shark or from the whale or from the stones. They had to carve their own um hooks, you know. Where did they get their laau? To tie their nets when they need to do hukilau. Came from the trees. The kumu laau. Shame. Embarrassing. This is very embarrassing. Especially for young parents that have children coming to school now days in the public school. You have children? No (Sh). You lucky. Maybe you have nieces and nephews that you gonna have to teach these things. One day they're gonna ask you these questions and are you gonna be able to answer them? You don't know yeah? You see. You know Peter Young. He lied. He was with us inside that puwalu. And what did he tell some of us. That the net, the gill net was still in the Attorney's office yeah. And that it was, yeah, it was in process. How come, boom, all of a sudden inside the newspaper. What? That the DLNR going have victory over the hotels, yeah. They going ban the gill nets. See. He lied. Is that your boss? Shame yeah. What are you going to tell him now when you go back? I'm sorry. You're a nice person. We respect you. Yeah. And then he put the force on the DLNR. Why use DLNR? Poor things. They have to do their job. Why, cannot help. And poor thing our young DLNR get chopped for this. It's not DLNR, it's the people that's running it. They have no respect. Yeah. They don't know how to ask permission, you know to come and ask the people, the local people. You know. Ask them questions. You don't understand. Ask. We be willing to teach you. We've been willing to help you. One of the provisions that we came up in puwalu is to educate our young ones. That's one of the most important concerns in that puwalu is to help our little ones. And to educate the Legislature and all the policy makers and the lawmakers. That was one of the provisions in that puwalu. You know, my husband was a clean fisherman. He knew all the holes. Every -- manini. When you wanted to eat kala, he would go to Punalau. He wanted to eat his mullet, his moi, he go to 53 Honolua Bay. He wanted to eat nice crispy kind manini, he would go to Napili Kai. Uh huh. When he went out to lay his net, he told his boys that they not to lay the net in the area where there was coral because you going break the coral when you pull your net out and the fish not going have house. You see how. Can these people do those things? A'ole. No, they cannot. They don't know how. But they like to make laws yeah. You know, I have five girls. Everyday, we come home from work take his net. And my girls, everyday they had to eat this fish fried by grandma nice and crispy. Five girls. One day, he didn't have help to go out and get his nets. He had to take his nine-year old daughter wake her up 5 o' clock in the morning. Take her out down to the water with him to go help him pick up his nets because he didn't have any body to help him. Because his friends were all for the night, you know. And um. This nine-year old girl went with the father in this cold water, dark, go help the father pickup his net. Kay. And from then on, that was his helper. Every day when dad came home, and they would see him pick up his ah fins or whatever, the first thing they

would do when they would wait. And when he came home, there was one girl with the knife, one girl with the board, one girl with the scale cleaner. Um. There were rules. Ai mullet wasn't suppose to be picked up between the months of January and April. Yeah. Our squid wasn't picked up until the months of July, August and on. And how they knew the squid was right, was ready. They look at the hala tree. You know what a hala tree is? And when the seed was nice and red and ripe and ready and falling down. That's how they knew how to go pickup, that the squid was ready. That's how. The same thing with the wana. The same thing with the ha'uke'uke. They never went down and pick up ha'uke'uke anytime, just like how these tourists doing now days. Go stand on the reef and just touch these things and they don't even know what they touching. They watch the sugar cane, the flower. The sugar cane flower. That's how they knew the ha'uke'uke was ready. Uh huh. The ulu ripe, fall down. That's how they knew. The wana was ripe, fat, ready to go pickup. See, my husband lay four nets, he lay five nets sometimes. Takes my two-year old baby out. Early in the morning, go with him go pick up. My sixteen year old grandson and his two friends. Guess what. Can these people. Can these people know how to take the shark, huh? Nine-foot tiger shark. Fifteen footer shark tail out of the net and swim the shark out of the net until the shark comes strong. And then let the shark go. Hah. Can you do that? These girls can. Shame. So, I just hope I have great faith, I have great faith this thing is gonna work. I know, I know without a shadow of a doubt. This thing is gonna work and we all pa'a pono together. It's gonna work. Thank you. Mahalo.

SH. Thank you. Anybody else left. Last testimony.

My name is Kaulana Kapu. I'm from Lahaina. I get little bit thing for say. To Uncle, what uncle said if you going ban Maui, might as well ban Molokini too. But I say, if you going ban Maui, I going down the beach, I going gut open one fish and I going keep throwing guts in the ocean all around the island. So nobody going ocean. You like ban everthng, I going ban everything. I going ban the waters for tourists. I going ban the waters for surfers. I going ban the waters for everybody. I ain't scared for go in the water if get one shark around. I know everybody else going be scared. That's my aumakua, that's my family that. I dive with the sharks, I swim with the sharks, I swim with anything. I love to be in the ocean. You not going take that shit away from me. That's all I get for say.

SH. Okay, so that's the last testimony. Um, based on the testimonies presented, the Department will submit its findings and recommendations to the Board of Land and Natural Resources. If approved by the Board, legal review will be done by the Attorney General and then, if approved, will be given to the Governor for final approval. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's Office and after ten days it becomes effective. On behalf of the Board of Land and Natural Resources and the Division of Aquatic Resources thank you for attending this public hearing. This public hearing is now adjourned. Time now is 7:55 PM. Drive home carefully. Thank you for coming.